

Company, director fined almost \$50,000 for ignoring unfair dismissal compensation Order

30 September 2014

A Melbourne company and its director have been fined almost \$50,000 for ignoring a Fair Work Commission Order to pay \$2200 compensation to a young employee who had been unfairly dismissed.

World Gym Sunshine Pty Ltd, which previously operated a fitness club based at Sunshine in Melbourne's western suburbs, has been penalised \$41,182.50.

The company's sole director and part-owner, Wayne George Mailing, of Brighton, has been fined a further \$6426.

The penalties were imposed by the Federal Circuit Court following legal proceedings initiated by the Fair Work Ombudsman.

The litigation was the Agency's first court action in response to a breach of Fair Work Commission Orders to pay unfair dismissal compensation.

Handing down his decision, Judge John O'Sullivan described the case as "a very serious matter".

Judge O'Sullivan said the penalty imposed should create a "significant measure of general deterrence so that others understand the need to accept the umpire's decision and comply with Orders of the Fair Work Commission".

In January this year, the Commission ordered World Gym Sunshine to pay \$2200 compensation within 14 days to a then 23-year-old receptionist it found had been unfairly dismissed.

The employee contacted the Fair Work Ombudsman seeking assistance after the compensation was not paid.

Acting Fair Work Ombudsman Mark Scully says Fair Work inspectors issued several notices requesting the company to comply with the Commission's Orders, but they were ignored.

"We made extensive efforts to resolve this matter without going to Court, but we were left with no option but to proceed to litigation because this company simply refused to co-operate," Mr Scully said.

The company finally complied with the Order to pay compensation in late August.

Judge O'Sullivan found that World Gym Sunshine had "wilfully ignored" the Commission's Orders until after the Fair Work Ombudsman commenced its legal proceedings.

He said the affected employee, with the assistance of the Fair Work Ombudsman, "has had to go to the cost, expense and time of seeking compliance with the Orders through these proceedings".

"There is nothing to suggest that (World Gym Sunshine) has shown any insight into, let alone remorse for, its behaviour," Judge O'Sullivan said.

Judge O'Sullivan said Mailing was directly involved in the deliberate non-compliance by World Gym Sunshine.

He said the penalty imposed should deter Mailing, who is involved in several other businesses, from future similar conduct.

Mr Scully says ignoring the Orders of the Fair Work Commission has proved to be a costly decision for the company and Mailing.

"They could have avoided this significant penalty by simply accepting the Commission's original ruling and paying this young employee the relatively small amount of compensation ordered," he said.

"Compliance with Commission Orders is fundamental for the integrity of the workplace relations system and employers should be aware that we are prepared to take action where appropriate to ensure they are enforced."

Employers and employees seeking assistance can visit www.fairwork.gov.au or contact the Fair Work Infoline on 13 13 94. A free interpreter service is available by calling 13 14 50.

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