

Young bicycle courier allegedly short-changed \$7600

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A bicycle courier in Melbourne was underpaid more than \$7000 after his employer breached sham contracting laws and misclassified him as an independent contractor, the Fair Work Ombudsman alleges.

The Fair Work Ombudsman has commenced legal action against Bacchus Marsh man Vincent John Smits and his business Z Transport Group in the Federal Circuit Court in Melbourne.

Z Transport Group allegedly recruited a bicycle courier in 2013, classified him as an independent contractor and paid him according to the jobs he performed.

However, it is alleged the courier, aged in his late 20s, should have been classified as an employee. His duties were controlled and directed by Z Transport Group between 8 am and 5.30 pm each day.

The employee did not have an Australian Business Number (ABN), did not invoice Z Transport Group to receive payment and was not operating his own independent business.

It is alleged that the courier was entitled to receive employee entitlements under the Road Transport and Distribution Award, including minimum wages and leave entitlements.

Z Transport Group therefore allegedly underpaid the courier \$7641 between February and November, 2013. Fair Work inspectors investigated after the courier lodged a complaint.

Mr Smits and Z Transport Group allegedly failed to take action after an inspector issued them with a Compliance Notice in September last year requiring full back-payment of the courier within 16 days.

Under the Fair Work Act, business operators must comply with Compliance Notices issued by Fair Work inspectors or make a court application for a review if they are seeking to challenge a Notice.

Breaches of pay slip laws are also alleged.

The employee was back-paid shortly before the Fair Work Ombudsman commenced legal action.

Acting Fair Work Ombudsman Michael Campbell says the Fair Work Ombudsman had earlier investigated a complaint from another courier in 2012, after which Z Transport was advised of the need to ensure employees were not misclassified as contractors.

Z Transport Group now faces maximum penalties of up to \$51,000 per contravention. Mr Smits faces a maximum penalty of up to \$5100.

Any employers or workers who have any uncertainty about whether practices at their workplace are appropriate can visit the Fair Work Ombudsman website at www.fairwork.gov.au.

Underpinning the Fair Work Ombudsman's website tools and resources is its award-winning Small Business Helpline, 13 13 94, where employers can get advice they can rely on with confidence.

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