

Fair Work Ombudsman successful in High Court appeal on sham contracting matter

3 December 2015

The High Court has unanimously upheld an appeal from the Fair Work Ombudsman in relation to a sham contracting matter affecting workers at a Perth accommodation facility.

The High Court has ruled that Quest South Perth Holdings Pty Ltd, which formerly operated the Quest on Arlington serviced apartments, breached sham contracting laws when it attempted to convert three employees into independent contractors in 2009.

The High Court decision upholds allegations made in a legal action commenced by the Fair Work Ombudsman in 2011 and overturns an earlier decision on the matter by the Federal Court.

This was the first appeal lodged by the Fair Work Ombudsman in the High Court and it is the Fair Work Ombudsman's first judgment from a substantive appeal in the High Court.

Fair Work Ombudsman Natalie James says the High Court's ruling on the matter is significant because it creates greater legal protection for employees against sham contracting activity.

"The High Court's decision offers greater protections in situations where employers attempt to avoid responsibility for providing employees' lawful minimum wages and entitlements by claiming employees are independent contractors," Ms James said.

A penalty hearing will now be scheduled in the Federal Court.

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

Information relating to contracting is available on the [Independent contractors page \(www.fairwork.gov.au/find-help-for/independent-contractors\)](http://www.fairwork.gov.au/find-help-for/independent-contractors) .

Follow Fair Work Ombudsman Natalie James on Twitter [@NatJamesFWO](https://twitter.com/NatJamesFWO) (http://twitter.com/NatJamesFWO) , the Fair Work Ombudsman [@fairwork_gov_au](https://twitter.com/fairwork_gov_au) (http://twitter.com/fairwork_gov_au) or find us on Facebook www.facebook.com/fairwork.gov.au (http://www.facebook.com/fairwork.gov.au) .

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Page reference No: 5682

Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

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