

Labour-hire operator faces Court over alleged sham contracting and underpayments

9 June 2015

A labour-hire operator in Melbourne is facing Court for allegedly breaching sham contracting laws and underpaying two employees. The Fair Work Ombudsman has commenced legal action against Franco Cardamone, who operates a labour-hire business trading as Howsitgoingmate.

Mr Cardamone allegedly underpaid two workers a total of \$1970 for short periods of various manual labouring work they completed in 2013 and 2014.

The underpayments were allegedly the result of the casual employees being paid flat rates of \$18 an hour, despite being entitled to more than \$20 an hour for normal hours and rates of up to \$36 an hour for overtime work.

It is alleged Mr Cardamone also breached sham contracting laws by knowingly misclassifying one of the employees as a contractor.

The Fair Work Ombudsman investigated after the workers contacted the Agency.

Mr Cardamone and his company allegedly failed to respond to two Notices to Produce employment records issued by Fair Work inspectors during the investigation.

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

Breaches of pay-slip laws are also alleged.

Fair Work Ombudsman Natalie James says legal action was initiated because of a lack of co-operation from Mr Cardamone and because he has previously been put on notice of the need to comply with workplace relations laws.

The Fair Work Ombudsman has received more than 30 underpayment allegations from employees of businesses operated by Mr Cardamone since 2013.

"Mr Cardamone has been warned about the need to pay employees their full lawful entitlements and not to misclassify employees as contractors," Ms James said.

Mr Cardamone faces maximum penalties of up to \$10,200 per contravention. The Fair Work Ombudsman is also seeking Orders for full back-payment of the two employees.

A directions hearing is scheduled in the Federal Circuit Court in Melbourne on July 7.

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

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