

Security companies to face Court after employee allegedly underpaid over \$11,000

29 May 2015

A national security company knowingly allowed one of its contractors to underpay an employee more than \$11,000, the Fair Work Ombudsman alleges.

Facing the Federal Circuit Court in Brisbane is Security International Services Pty Ltd and another security services company, GRI Global.

Security International Services held a contract to provide security at Queensland Curtis Liquefied Natural Gas project construction sites in the Chinchilla/Dalby area operated by Thiess Pty Ltd between September, 2013 and January, 2014.

Security International Services allegedly engaged GRI Global to supply security guards and agreed to pay \$21 an hour.

One of the security guards employed by GRI Global was allegedly paid a flat weekly rate of \$1500 for working from 6pm to 6am seven days a week on 21-days-on, seven-days-off roster.

The Fair Work Ombudsman alleges that this amount was not sufficient to cover the worker's minimum entitlements, including penalty rates for night, weekend, overtime and public holiday work under the Security Services Industry Award.

The worker was allegedly underpaid \$11,189 over a period of four months.

The Fair Work Ombudsman alleges that GRI Global contravened workplace laws by underpaying the employee, but Security International Services is culpable as an accessory because it knew the flat rate being paid was not enough to cover minimum Award entitlements.

GRI Global also allegedly contravened sham contracting laws by misrepresenting to the worker that he was a contractor, not an employee.

Pay-slip contraventions are also alleged.

The Fair Work Ombudsman investigated the matter after the worker contacted the Agency for help. The alleged underpayments were subsequently rectified.

Fair Work Ombudsman Natalie James says GRI Global has previously had to reimburse underpaid employees more than \$70,000.

And the company had been put on notice in the past about the need to pay employees their full lawful entitlements and to keep proper employment records.

The Fair Work Ombudsman alleges multiple contraventions of workplace laws in relation to the latest underpayment matter.

Security International Services and GRI Global each face penalties of up to \$51,000 per contravention.

Ms James says employers need to be aware that they risk breaching workplace laws if they engage contractors to supply labour and turn a blind eye what the workers are being paid.

"Security services is one highly cost-competitive industry in which organisations need to be alert to the non-compliance risks associated with selecting low cost providers," she said.

"Sometimes the lowest quote can have the highest cost if it ultimately damages the organisation's reputation and exposure to financial penalties for being an accessory to contraventions of the Fair Work Act."

The Fair Work Ombudsman has previously cautioned that security services costing less than an average \$24 an hour will likely result in the employee being underpaid.

Later this year, inspectors will conduct audits aimed at identifying unlawful practices among those companies providing security services to local councils.

Ms James says employers also need to realise that classifying a worker as a contractor and asking them to obtain an Australian Business Number (ABN) does not automatically make them a contractor in the eyes of the law.

“When our inspectors suspect misclassification or sham contracting is occurring, we will look carefully to determine the true state of affairs,” she said.

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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