

Ventia Utility Services signs workplace pact, overhauls overseas recruitment practices

20 July 2016

A NSW-based services company faces enforcement action after workers recruited from the Philippines were threatened with dismissal if they joined a union.

Ventia Utility Services Pty Ltd - formerly known as Thiess Services Pty Ltd – has expressed “sincere regret” for its failure to comply with its obligations under federal workplace laws.

It has agreed to overhaul its recruitment practices as part of an Enforceable Undertaking (EU) it has entered with the Fair Work Ombudsman.

Ventia Utility Services provides utility and environmental services to Australian and New Caledonian industrial, government and commercial clients.

It bought Thiess Services on March 31 last year.

In February 2011, Thiess Services entered into a recruitment agreement with Philippines-based Prime Manpower Resources Development Inc to manage the recruitment of Filipino workers to work in Australia.

At the completion of a recruitment process, selected candidates were offered and signed a binding Thiess Services employment agreement.

Prime also required them to sign a Master Employment Contract (MEC), which is a requirement of Philippine law to enable Filipino nationals to work outside the country.

However, the contract contained a clause which allowed Thiess Services to terminate their employment if they engaged in trade union activity.

The Filipino workers arrived in Australia in 2013 on 457 visas and were deployed to Thiess Services sites in Western Australia and Victoria.

They were reluctant to join a union because of the MEC contract they had signed.

After being redeployed or made redundant in October 2013, the Filipino visa-holders contacted the Electrical Trades Union (ETU).

The ETU contacted both the Fair Work Ombudsman and Thiess Services on behalf of 10 affected workers to raise concerns that the MEC was unlawful under the Fair Work Act.

Thiess Services said it was unaware that the employees had signed the MEC and that Prime had acted without its authorisation.

In a letter of apology to the workers in October 2013, Thiess Services withdrew the clause and reassured the employees that union membership would not impact on their jobs.

The Fair Work Ombudsman investigation disclosed that a Thiess Services executive had signed a blank MEC in February 2011, which Prime had used as a template for the employee contracts.

Neither Thiess Services nor Ventia Utility Services had any prior history with the Fair Work Ombudsman. Both co-operated with the Agency and voluntarily assisted Fair Work inspectors with their inquiries.

Fair Work Ombudsman Natalie James says the employer breached the adverse action provisions of the Fair Work Act by requiring them to sign a contract which effectively prohibited them from joining a union.

Ms James says the MEC was false and misleading with its claim that the company had the right to dismiss employees who engaged in union activity.

“While this issue seems to have arisen because of poor governance rather than a deliberate attempt to deprive these workers of their rights, it was none-the-less in black and white in the employment contract and created genuine anxiety among the workers,” she said.

“The right of workers in Australia to join, or not join, a union – or participate, or not participate in union activities – is a fundamental freedom enshrined in the statute books, and we expect all workplace participants to uphold these rights. In the event that they do not, we take our role in upholding these laws very seriously.”

Ms James says the Enforceable Undertaking signed by Ventia Utility Services aims to encourage behavioural change and future compliance with federal workplace laws.

“Companies cannot outsource their workplace obligations to third parties acting on their behalf as agents within or outside Australia,” Ms James says.

The EU includes a requirement that the company make a \$50,000 donation to the Philippines-Australia Community Services Inc to assist it promote workplace rights.

Additionally, it requires Ventia Utility Services to:

- Not use employment contracts that contravene federal workplace laws,
- Establish a dedicated hotline and email address for affected current and former employees,
- Enlist human resources specialists to resolve hotline and email inquiries,
- Develop systems and processes to ensure ongoing compliance with federal workplace laws,
- Place a notice in the workplace, on the website and in the Weekend Australian newspaper explaining the contraventions and the company’s actions to remedy them, and
- Organise training for human resources managers related to the recruitment of off-shore workers under the 457 visa program.

Information to assist both employers and employees from non-English speaking backgrounds has been translated into 27 languages on the Fair Work Ombudsman website at www.fairwork.gov.au/languages (<http://www.fairwork.gov.au/languages>) . Overseas workers or employers seeking assistance can call the Fair Work Infoline on 13 13 94 between 8 am and 5.30 pm weekdays to obtain free advice and assistance from a team of expert advisers. A free interpreter service is also available on 13 14 50.

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Media inquiries:

Annie Lawson, Media Adviser

Mobile: 0466 522 004

annie.lawson@fwo.gov.au (<mailto:annie.lawson@fwo.gov.au>)

Page reference No: 6210

Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

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