

Union faces legal action over alleged unlawful industrial action at Woolworths sites

23 June 2016

The Fair Work Ombudsman has commenced legal proceedings against the National Union of Workers (NUW) over alleged unlawful industrial action at two Woolworths distribution centres in Melbourne last year.

The legal action, filed in the Federal Court, relates to employees of two Woolworths subsidiary companies taking unprotected industrial action at distribution centres in Laverton and Broadmeadows in August, 2015.

It is alleged that the industrial action was taken in protest at a decision of the Woolworths' subsidiary company operating the Laverton centre, Woolstar Pty Limited, to engage casual workers at the centre through a third party labour hire agency, Chandler MacLeod.

It is alleged that more than 200 workers took part in the industrial action at the Laverton centre between August 10 and 13 and that more than 50 workers took part in the industrial action at the Broadmeadows centre on August 13.

The industrial action allegedly included some workers forming picket lines blocking trucks and people from entering and exiting the Laverton centre and swearing at employees who attended or left work at that centre.

It is alleged that in response to the industrial action, Woolstar agreed to a number of restrictions, in consultation with the NUW, on the use of labour hire at the Laverton centre.

The Fair Work Ombudsman alleges the NUW contravened the Fair Work Act laws by organising the unlawful industrial action.

The industrial action is considered unprotected and therefore unlawful because it occurred before the nominal expiry date of the enterprise agreements covering employees at the Laverton and Broadmeadows centres.

It is also alleged that the NUW contravened the Fair Work Act through its involvement by failing to comply with a Fair Work Commission order, issued on August 11, for the industrial action at the Laverton centre to cease.

Further, it is alleged that the NUW contravened the general protections provisions of the Fair Work Act by organising the industrial action with the intent to coerce Woolstar into not using labour hire during non-peak periods unless the NUW agreed to it and by coercing Woolstar to not engage the services of Chandler MacLeod.

The Fair Work Ombudsman is seeking penalties in the Federal Court against the NUW for the four alleged contraventions of the Fair Work Act and an additional order for the Union to pay compensation to Woolworths' subsidiary companies for losses and damages they suffered.

The NUW faces maximum potential penalties of up to \$54,000 per contravention.

The Fair Work Ombudsman has not yet specified the amount of compensation it is seeking.

A directions hearing is scheduled in the Federal Court in Melbourne on July 21.

It is the 10th time the Fair Work Ombudsman has taken legal action against a union.

Fair Work Ombudsman Natalie James says the decision was made to bring legal action against the NUW because enforcing compliance with workplace laws relating to industrial action and Fair Work Commission orders is fundamental for maintaining the integrity of Australia's system of industrial laws.

Ms James says it was of concern that the alleged contraventions occurred despite Fair Work inspectors having provided advice to the NUW about its obligations under workplace laws, and the NUW having a Memorandum of Understanding (MOU) with the Agency.

"We will always look to work with all workplace participants to resolve issues co-operatively and voluntarily where we can, but we take a dim view of parties who do not engage with us and do not show proper regard for their obligations," Ms James said.

"We allege that this matter involves serious contraventions from an experienced workplace participant that should be well aware of the lawful avenues available to address the issues of concern without inflicting damages on a business exercising its right to

outsource labour, which is a legitimate business decision, provided it is done lawfully.

“Employees and their representative bodies are able to resolve disputes about the operation of enterprise agreements via their dispute resolution clause in their agreement.

“There are lawful ways to resolve disputes that arise over the course of an agreement and recourse to unlawful industrial action and coercion is not appropriate.”

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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