

Tasmanian businesswoman penalised almost \$98,000 over “heartless” treatment of workers

22 March 2016

Launceston businesswoman Wendy Langridge has been penalised almost \$98,000 for her "heartless" treatment of long-term employees at the Mowbray Mill.

Thirteen former mill employees are owed almost \$160,000 in outstanding wages and entitlements.

Handing down the penalty in the Federal Circuit Court, Judge Philip Burchardt found that Langridge's treatment of her staff had had a "heart-wrenching" impact on her workers.

The penalty follows an investigation and legal action by the Fair Work Ombudsman.

The 13 former mill workers, who are owed amounts ranging from \$6000 to \$22,000, previously worked for company James Nelson Pty Ltd, which is now in liquidation.

Judge Burchardt found that Langridge, the company's former director, unlawfully stood down six employees in 2013 and in so doing, avoided paying wages, leave, termination and redundancy entitlements - and failed to pay a further seven.

The Court noted that Langridge had facilitated the transfer of James Nelson's business to Waverley-based company Southern Textiles Pty Ltd.

The transfer was made after the Fair Work Ombudsman sought an undertaking from the company not to disperse its assets, except to pay the workers their outstanding entitlements.

Judge Burchardt found that Langridge knew that it was not possible to pay the workers their redundancy entitlements if their employment was terminated, but made various promises to them that they would be paid.

"She must have known that having the employees stood-down without any form of payment and/or working and not being paid was extremely detrimental to them," he said.

"She knew the company could not afford to pay its debts as and when they were falling due and, in a fashion that could at the lowest be described as thoughtless but at the highest could be described as heartless, effectively took advantage of the employees, a number of whom she well knew were both aged and with a deep commitment to the company for which they had worked for so long."

Judge Burchardt said affidavits from the former employees "speak in what, to me at least, are heart-wrenching terms about the effect of the stand-down and non-payment of wages".

"It is not necessary to say more than that the financial and emotional circumstances of these employees have been very severely affected, as must have been indeed obvious at all material times to all concerned."

Judge Burchardt's written decision notes that Langridge's evidence to the Court had been "somewhat insouciant with the truth" about her experience as a company director.

The Court observed that Langridge's denials about various promises she had allegedly made to employees to pay them were "unconvincing" and that she had also dealt falsely with receivers for James Nelson.

Langridge conceded that on occasions she had received money into her own private account that should have gone to James Nelson.

On January 20, 2015, the Fair Work Ombudsman sought an undertaking that James Nelson not disperse any assets or proceeds from sales of its assets.

Langridge signed an undertaking to this effect on February 24, 2015.

Plant and equipment from Mowbray Mill had been moved to the Waverley site in September, 2014.

On December 23, 2014, Southern Textiles was established with Langridge as a director. On the same date, James Nelson's business was sold to Southern Textiles and James Nelson ceased trading.

Judge Burchardt found this was a troubling aspect of Langridge's workplace contraventions.

He described as "telling" Langridge's decision to sign an undertaking not to distribute assets when she knew at the time they had already been distributed.

"The picture (Langridge) has sought to present is one of her being unwittingly placed in an impossible position," Judge Burchardt said.

"I do not accept that this is the case. She has never apologised directly to the employees concerned. While I have no doubt that she is very sorry that things have come out as they have, the picture that emerges for me is that her primary regrets are more concerned with herself and her husband than with the employees."

Judge Burchardt said no corrective action had been taken and the Fair Work Ombudsman correctly pointed out that the sale of James Nelson to third parties could only be understood as an endeavour, at least in part, to defeat the legal action.

"It is important that penalties be imposed at a sufficient level to ensure that employers have a clear understanding of the severe consequences that will attend a failure to apply minimum standards or contravene the legislative requirements in any event," he said.

"I will be setting a level of penalties that will give expression to this necessity ... in circumstances where a company's assets are stripped and given to a third party the Court should take a particularly severe view."

The penalty against Langridge represents 80 percent of the maximum \$122,400 that could have been imposed.

The Court also ordered an injunction restraining Langridge from being involved in breaches of workplace laws in the textile industry in future.

Fair Work Ombudsman Natalie James says the penalty should send a powerful message to other company directors who show blatant disregard for their workplace obligations.

"To actively betray long-time, loyal employees and then cause them hardship in a bid to protect personal interest is breathtaking," she said.

Ms James says the Fair Work Ombudsman is continuing to pursue all available options to ensure that the employees receive their lawful entitlements.

"Building a culture of compliance with workplace law is important, and employers should be aware that we are prepared to take action where appropriate," she said.

"The integrity of the system must be upheld."

Ms James says her Agency is striving to ensure a level playing field for employers who are doing the right thing and meeting their workplace obligations.

She encouraged employers who had any uncertainty about their workplace practices to visit the website at www.fairwork.gov.au or phone the Fair Work Infoline on 13 13 94.

An interpreter service is available by calling 13 14 50 and information on the website is translated into 27 languages.

Small business can opt to be put through to a small business helpline, which has now assisted almost 300,000 callers since it was established.

The Fair Work Ombudsman recently introduced a Pay and Conditions Tool (PACT), which provides advice about pay, shift, leave and redundancy entitlements. Free templates for pay slips and time-and-wage-records are also available on the website.

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Media inquiries:

Bryan Littlely, Assistant Director, Media

Mobile: 0447 692 007

bryan.littlely@fwo.gov.au (<mailto:bryan.littlely@fwo.gov.au>)

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