

Cleaning operator penalised for refusing to back-pay international students

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A Sydney cleaning operator being penalised more than \$11,000 for refusing to back-pay two international students less than \$3000 sends a strong warning, according to the Fair Work Ombudsman.

Sydney man Michael Girowal has been penalised \$1890 and his company Green Clean (Aust) Pty Ltd has been penalised a further \$9450 in the Federal Circuit Court, following legal action by the Fair Work Ombudsman.

Girowal and his company received the penalties for failing to comply with a Compliance Notice issued by the Fair Work Ombudsman requiring them to rectify \$2943 in underpayments of two employees.

Under the Fair Work Act, business operators must adhere to Compliance Notices or make a Court application for a review if they are seeking to challenge a Notice.

The two employees were Filipino workers who were in Australia on student visas.

Fair Work Ombudsman Natalie James said extensive efforts were made to resolve the matter outside of the Court but Girowal's refusal to co-operate meant legal action was the only option.

Girowal back-paid the employees only after the Fair Work Ombudsman commenced litigation.

"This operator could have saved himself a lot of time and money by co-operating with the Fair Work inspectors who investigated this matter," Ms James said.

"The clear message to employers is that if you short-change employees and then thumb your nose at Fair Work inspectors, you do so at your own peril. We are prepared to take legal action against employers who refuse to engage with us and matters involving underpayment of visa holders are treated particularly seriously."

Girowal paid the employees a flat rate of \$20 an hour between December, 2014 and January, 2015, resulting in underpayment of the minimum hourly rates, penalty rates and an allowance they were entitled to under the Cleaning Services Award.

Girowal also failed to pay their accrued annual leave entitlements and pay in lieu of notice of termination when he terminated their employment without notice.

In his judgment, Judge Rolf Driver said the underpayment amounts were "not insignificant" for the employees and the penalty imposed should "show there are serious consequences for failing to comply with a compliance notice".

Judge Driver also ordered Girowal to register with the My Account service at www.fairwork.gov.au and complete the education courses for employers in the Online Learning Centre.

Employers and employees seeking assistance can visit the website or contact the Fair Work Infoline on 13 13 94. An interpreter service is available on 13 14 50.

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