

Melbourne removalist faces enforcement action after short-changing Sri Lankan asylum seeker

10 November 2016

The Fair Work Ombudsman has recovered almost \$9000 for a Sri Lankan asylum seeker who was underpaid over a period of just three months at a furniture removalist business in Melbourne.

Shelly Removals and Storage Pty Ltd underpaid the worker for truck driving and removalist duties when it employed him between October last year and January this year.

It was the worker's first job in Australia since arriving as an asylum seeker a few years earlier.

The company recruited the worker, who was on a bridging visa with work rights at the time, by placing a job advertisement on a notice board at an Australian Migrant English Service centre.

The worker regularly worked 50 hours a week but was paid for only 30-to-38 of the hours – and he was paid at the unlawfully low, flat rate of \$18 for those hours.

Fair Work Ombudsman Natalie James says the practice of employers recruiting overseas workers and paying them a 'going-rate' below lawful Australian minimums is completely unacceptable.

"Overseas workers are entitled to receive the same minimum rates and entitlements that apply to all workers in Australia – and the rates are not negotiable," Ms James said.

As a casual under the Road Transport and Distribution Award 2010, the worker was entitled to receive a base rate of \$23.75 per hour, up to \$39.90 for overtime, up to \$42.75 on weekends and up to \$52.25 on public holidays.

Shelly Removals and Storage also failed to pay his removalist and meal allowances and made an unlawful deduction from his wages for 'insurance excess' after he was involved in a road accident. In total, the company underpaid the worker \$8711.

The Fair Work Ombudsman investigated after the worker lodged a request for assistance and the company, which did not have a history of non-compliance, and its director Sima Vaknin fully co-operated.

After being educated about its obligations, the company avoided facing legal action by back-paying the worker in full and agreeing to overhaul its workplace practices by entering into an Enforceable Undertaking (EU) with the Fair Work Ombudsman.

As part of the EU, Shelly Removals and Storage will commission professional external audits of its practices this year and next year and rectify any non-compliance issues discovered.

It must also report to the Fair Work Ombudsman on process improvements it has made to ensure future compliance, commission workplace relations training for its managers, display a workplace and a public notice detailing its contraventions and apologise to the worker.

Employers and workers seeking free advice and 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 and information on the website has been translated into 27 languages.

The Fair Work Ombudsman's Pay and Conditions Tool (PACT) provides advice about pay, shift, leave and redundancy entitlements. Visit www.calculate.fairwork.gov.au (<http://www.calculate.fairwork.gov.au/>) to learn more.

Follow Fair Work Ombudsman Natalie James on Twitter [@NatJamesFWO](https://twitter.com/NatJamesFWO) (<http://twitter.com/NatJamesFWO>), the Fair Work Ombudsman [@fairwork_gov_au](https://twitter.com/fairwork_gov_au) (http://twitter.com/fairwork_gov_au) or find us on Facebook www.facebook.com/fairwork.gov.au (<http://www.facebook.com/fairwork.gov.au>).

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- [Shelly Removals and Storage Pty Ltd Enforceable Undertaking \(DOCX 141.8KB\) \(www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-shelly-removals-redacted.docx.aspx\)](http://www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-shelly-removals-redacted.docx.aspx) (PDF 1.3MB) (www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-shelly-removals-redacted.pdf.aspx)

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Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

The Fair Work Ombudsman is committed to providing advice that you can rely on. The information contained on this website is general in nature. If you are unsure about how it applies to your situation you can call our Infoline on 13 13 94 or speak with a union, industry association or workplace relations professional. Visitors are warned that this site may inadvertently contain names or pictures of Aboriginal and Torres Strait Islander people who have recently died.