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Heavy fine for underpaying casuals

A Melbourne carwash firm and its owner and sole director have been fined \$207 900 for underpaying five staff a total of \$4,511. The company admitted to underpaying the five casual workers in 2006.

The director of the mobile car-washing business failed to pay all or most of their wages. This included an 18-year-old who was employed to wash, clean and detail cars for 10 shifts but was not paid any of the \$851 in wages he was entitled to. Magistrate Kate Hawkins said she was satisfied the underpayment of the five workers was 'entirely deliberate' and that the director and his company had 'attempted to take advantage of the youth and naivety of the employees'.

Once complaints were made to the Workplace Ombudsman (WO), the company and director attempted to evade correspondence from a WO Investigator and refused to reimburse the five workers the money owed for more than two years. It was not until the matter went to court in February that the employees were reimbursed. Magistrate Hawkins accepted the court proceedings as the reason for the eventual reparation. In her judgment, Her Honour stated the company and its director had shown no contrition for their 'wholly unlawful' conduct and that the court could not

be satisfied they had learnt their lessons and would not engage in such conduct in the future.

Magistrate Hawkins stated 'the [company and director] must get the message that they must comply with the law or close the business down' and that the law should 'mark its disapproval of the conduct in question and set a penalty which serves as a warning to others'. A penalty of 70 percent of the maximum for each breach was applied, resulting in the company being ordered to pay \$184,800 for eight breaches of the award or Act, and the director/owner \$23,100 for five breaches of the award or Act.

Advice

- The severity of this fine acts as a warning for all employers about the attitude of the courts when dealing with underpayments of this type.
- Employers are advised to ensure that the correct entitlements for employees are paid and steps are taken by employers of all sizes to ascertain and comply with minimum entitlements.



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