

Queensland labour-hire company faces court for alleged underpayment of 87 visa holders

4 November 2022

The Fair Work Ombudsman has commenced legal action against a labour-hire company that operated on farms in Far North Queensland, alleging it underpaid visa holders almost \$50,000.

Facing court is NQ Powertrain Pty Ltd. The Fair Work Ombudsman investigated the company after receiving reports of potential non-compliance from the Queensland Labour Hire Licensing Authority and the Commonwealth Government departments administering the Pacific Labour Scheme (PLS) and Seasonal Worker Programme (SWP).

It is alleged that NQ Powertrain had underpaid 87 workers it employed under the PLS and SWP a total of \$49,933 between December 2018 and May 2020.

More than \$42,000 of the alleged underpayment relates to deductions from the workers' wages for accommodation costs. It is alleged the deductions were unlawful because they were in excess of the actual cost of the accommodation.

It is alleged NQ Powertrain made deductions from each worker's wages for accommodation at either a boarding house in Mareeba or a farmhouse in Tolga. The Fair Work Ombudsman alleges more than a dozen instances of NQ Powertrain deducting, in total, in excess of \$1000 more from a worker's wages than was required to cover their accommodation costs.

NQ Powertrain allegedly also made unlawful deductions from workers' wages for transport costs, and underpaid their Sunday overtime rates, time-off-in-lieu entitlements and minimum-engagement pay, under the Horticulture Award 2010.

Fair Work Ombudsman Sandra Parker said taking action to improve compliance in the agriculture sector and protect vulnerable workers were top priorities for the FWO.

"This sector engages many vulnerable workers, such as visa holders, who may be unaware of their rights or unwilling to speak up. Employers who fail to deliver all their employees' entitlements – including due to unlawful deductions – will be found out and risk facing penalties," Ms Parker said.

"Any employees with concerns about their pay or entitlements should contact the Fair Work Ombudsman for free advice and assistance."

The workers were from countries including Papua New Guinea, Vanuatu and Solomon Islands. They picked, sorted and packed fruit and vegetables and performed general labouring and housekeeping tasks on the farms.

It is alleged the workers were employed by NQ Powertrain for periods of between one month to about 16 months, and that the company supplied them on an on-hire basis to farms at locations near Cairns, including Innisfail, Tolga, Walkamin, Mareeba, Upper Daradgee and Mourilyan.

Alleged individual underpayments ranged from \$17 to \$2,041. NQ Powertrain has rectified the alleged underpayments in full.

The Fair Work Ombudsman is seeking penalties against NQ Powertrain Pty Ltd for alleged contraventions of the Fair Work Act. The company faces penalties of up to \$63,000 per contravention.

A directions hearing is listed in the Federal Circuit and Family Court in Brisbane on 1 December 2022.

The company ceased trading earlier this year.

The FWO's [Horticulture Showcase](#) has self-audit tools, templates for employers hiring pieceworkers and a range of resources for migrant workers. Employers and employees can visit www.fairwork.gov.au or call the Fair Work Infoline on **13 13 94** for free advice and assistance about their rights and obligations in the workplace. A free interpreter service is available on **13 14 50**.

The SWP and PLS were consolidated under the Pacific Australia Labour Mobility (PALM) Scheme in April this year. The FWO has a dedicated [PALM Scheme webpage](#) which includes general information about workplace rights and entitlements, and links to relevant resources, including translated resources.

NOTE: The Fair Work Ombudsman makes no allegations against the farm businesses where the visa holders worked or against the boarding house or farmhouse where they resided.

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