



Quarry supervisor fined \$3,000 for falsifying a worker's competency assessment

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On 20 August 2020, a quarry supervisor pleaded guilty and was sentenced in the Mackay Industrial Magistrates Court for breaching s 31 of the *Mining and Quarrying Safety and Health Act 1999* ('the Act'), having failed to discharge his obligation under s. 36(2)(b) of the Act to ensure that the risk of injury to any person who was managed in the work and activities under his control, supervision or leadership, so that the risk was at an acceptable level. The defendant was convicted and fined \$3,000. A conviction was not recorded.

The defendant was employed as a supervisor at a quarrying company in Clermont and had been employed there since 2013. His responsibilities as supervisor included conducting induction training and competence assessments for new employees. A 21-year old male commenced employment with the company as a loader and excavator operator on 24 October 2018. The worker later died on 15 November 2018 as a result of a fatal incident at a quarry near Clermont.

On 24 October 2018, the defendant conducted the worker's induction training and competence assessments. The worker completed and signed two assessment forms relating to the operation of machinery at the Fairfield quarry. Both forms contained a theoretical and a practical component. The latter required the trainee to demonstrate competence by operating the machinery. The defendant signed the two assessments in his capacity as the 'Assessor' and marked the worker as 'competent' for each assessment.

The worker's answers to the theoretical assessment questions were verbatim to specimen answer sheets, indicating that he had copied from the answer sheets. The defendant facilitated this by allowing him access to the answer sheets. In relation to the assessment's practical component, the defendant did not conduct any skills or proficiency testing by observing the worker operating the loader or excavator as required by the assessment forms prior to marking him as 'Competent'. The defendant made admissions in a voluntary interview with investigators from the Department of Natural Resources, Mines and Energy ('DNRME').

In the absence of a genuine test of the worker's proficiency in the operation of loaders and excavators, there was a risk of injury either to the worker or other workers at the quarry.

In sentencing, Magistrate James Morton took into account the defendant's early guilty plea, good character, his youth, and full cooperation with the administration of justice. His Honour noted that the defendant's employment was terminated after his voluntary participation in an interview with DNRME investigators.

His Honour also acknowledged that the defendant's management may have contributed to the conduct, noting that both the defendant's and his supervisors' contributory conduct appeared to be an industry norm. However, His Honour determined that the defendant's conduct was still a flagrant disregard for the safety of workers.

OWHSP contact: enquiries@owhsp.qld.gov.au

Court Report

General

Industry	Mining
Date of offence	24 October 2018
Injury	Risk of injury
Court	Mackay Industrial Magistrates Court
Magistrate or judge	Magistrate James Morton
Decision date	20 August 2020

Company officer

Legislation	Section 31, section 36(2)(b) duty, <i>Mining and Quarrying Safety and Health Act 1999</i>
Plea	Guilty
Penalty	\$3,000
Maximum fine available	\$65,275 or six months imprisonment
Professional and legal costs	\$1,900
Court costs	N/A
In default period	N/A
Time to pay	4 months
Conviction recorded	No

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