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Six Darrell Lea staff denied redundancy payments as shell company DL Employment enters liquidation

AM – BY BUSINESS REPORTER [MICHAEL JANDA](#)

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PHOTO Mark McNeil says the case should never have come to this

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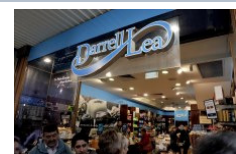
Six Darrell Lea workers face losing \$400,000 in redundancy entitlements after a shell company employing them was put into liquidation.

In July 2012, things looked dire for Darrell Lea and almost 700 people who worked for the confectionery maker. Most of the company's staff [did lose their jobs as its unprofitable store network was shut](#).

AUDIO [5:53]

[Darrell Lea employees denied court-awarded redundancies by new owner](#)

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However, more than 80 jobs were saved when the Quinn family, owners of VIP Petfoods, stepped in to buy the brand and its manufacturing operations.

Part of their restructure was to move the factory from Kogarah in Sydney's south to Ingleburn on the city's outer south-western fringes. That move has been the source of a fresh employment dispute.

"Most of the workforce were happy to go. A small number of the employees, this half a dozen, they're unable to travel to Ingleburn for a range of personal, family reasons," said Lucy Saunders, a legal officer with the Australian Manufacturing Workers' Union (AMWU), which is representing the six staff.

Among them is Steve Perry, 64, who worked at the company for 36 years. He has an eye condition which means he cannot drive.

"If all trains run on time, it's nothing under three-and-three-quarter hours everyday, and then there's still a 1.25-kilometre walk from Ingleburn Station to the factory," he said.

Ironically, around six years before the takeover, Mr Perry had moved from Raby, a suburb right next door to Ingleburn, to Como in Sydney's south because he felt he was getting to old for the long commute and wanted to live closer to work.

Another of the six workers, Mark McNeil from Kogarah, said he could not work in Ingleburn because the minimum 40-minute drive was too long for him to be able to get home quickly when there is an emergency with his disabled adult sister and his frail 87-year-old mother.

"[My mother] used to look after my disabled sister - my sister had an accident when she was young, 10 years old, on a pushbike," he said.

"Now that mum's too old, it's up to me, I'm the only family member in Australia at the moment."

Darrell Lea 'will not be paying the redundancies'

The union took the employer to the Fair Work Commission arguing that eight workers were entitled to redundancy payments, as they were not being offered suitable alternative employment by being asked to travel to Ingleburn.

The commission found that six of the eight were entitled to redundancies because of their personal circumstances, and the wording of the enterprise agreement.

The employer appealed to the full bench of Fair Work, but the original decision was upheld.

On January 28, the Fair Work Commission gave the employer 14 days to pay the six staff a total of around \$400,000 in entitlements that they were owed.

The individual entitlements ranged from more than \$50,000 to almost \$90,000.

The problem for the workers is that their employer was a labour hire firm, a shell company, called DL Employment.

In the days after the Fair Work decision, a range of corporate actions took place.

"On the 29th of January the Quinns created a new company, it's called KQ Employment Pty Ltd, it's ultimately owned by Klark Quinn, who manages the Darrell Lea site," Ms Saunders said.

"Then on the 30th of January Sinclair Quinn, who is the sole shareholder of DL Employment, placed the company into a voluntary winding up.

"So DL Employment is the company the orders are made against, it's the one that technically owes the money.

"The Darrell Lea business has indicated to us that they will not be paying the redundancies that the Fair Work Commission has ordered."

Former employees have 'no hope'

The ABC spoke with the liquidator of DL Employment, Jason Bettles from the Gold Coast office of insolvency firm Worrells.

He said DL Employment has no physical assets, and that its sole director, Sinclair Quinn, told him that there was no money in any of its bank accounts.

Ms Saunders says that leaves the former employees in limbo.

"The six employees are left with a company with no assets, no hope of recovery in the normal course," she said.

The liquidator told the ABC that he is an independent party whose role is to maximise the return for creditors, including by pursuing directors personally if they have breached their duties.

In this case the main creditors are the six employees, and the union says it is considering Federal Court action if the entitlements are not forthcoming.

Mr McNeil, 57, said he had applied for a couple of jobs since, but his caring responsibilities, his age and the ongoing legal battle were barriers to finding a new job.

"I've just been exhausting my savings trying to get by until this court case was finished," he said.

Mr Perry said it should never have had to come to this.

"It just makes you wonder. We as family members, as workers, teach our kids meet your commitments - if you say you're going to do something, do it. If you owe something, clear the debt," he said.

The day before DL Employment went into liquidation, Darrell Lea announced a new sponsorship deal with V8 Supercar racing outfit Tekno Autosport.

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