

\$33,000 back-paid to Gold Coast workers

17 April 2017

The Fair Work Ombudsman has recently assisted three workers on the Gold Coast to recover more than \$33,000 in unpaid wages and entitlements.

In one matter a worker employed as both a kitchen hand and maintenance and gardening worker at a Coolangatta resort was reimbursed \$17,057 after being underpaid for almost four years.

The worker was underpaid his penalty rates for evening work, weekend and public holiday work, and was not paid overtime rates or allowances for broken periods of work.

Furthermore, his employer failed to review and adjust the worker's wages each year in line with annual wage increases.

Under a salary arrangement, the employee received a flat rate of \$19.74 for all hours worked which did not meet the minimum entitlements for full-time employment as prescribed by the Hospitality Industry (General) Award 2010.

As a kitchen hand the worker should have received \$19.95 to \$22.24 on Saturdays, \$27.93 to \$31.13 on Sundays, \$23.94 to \$26.69 for public holidays, \$17.77 to \$19.80 for evening work and \$23.94 to \$35.58 for overtime hours.

The employee was also entitled to receive a higher rate of pay for undertaking gardening and maintenance duties when he was engaged in those duties for two hours or more on one day.

As a Level 3 Gardener Grade 2 classification he should have received \$21.43 to \$23.88 on Saturdays, \$30.00 to \$33.43 on Sundays, \$25.71 to \$28.65 on public holidays, \$18.95 to \$21.11 for evening work, and \$25.71 to \$38.20 for overtime hours.

In a separate matter, a car rental outlet in Southport reimbursed two former employees a total of \$16,366 after unlawfully paying the workers flat rates per job.

The ferry drivers were paid \$15 to \$35 per job to transport cars from one location to another over a 16 month period.

Under the General Retail Industry Award 2010 the workers should have been paid an hourly rate for all hours worked of \$23.74 per hour, increasing to \$25.64 on Saturdays, \$37.98 on Sundays and \$52.22 on public holidays.

The Fair Work Ombudsman assisted all three workers to recover their unpaid entitlements after they contacted the Agency for assistance.

Both businesses avoided enforcement action by co-operating with Fair Work Inspectors and voluntarily agreeing to reimburse the workers.

However, Fair Work Inspectors issued both businesses with Letters of Caution, placing them on notice that further contraventions of workplace laws may lead to enforcement action, including litigation.

Fair Work Ombudsman Natalie James says small business owners must ensure they abide by the minimum wage rates applicable to their business.

"When we find errors, our preference is to rectify any underpayments as quickly as possible, educate employers about their obligations and assist them to put processes in place to ensure mistakes are not repeated," Ms James says.

The Fair Work Ombudsman's Pay and Conditions Toll (PACT) can assist business owners to calculate pay rates applicable to their business. Templates for pay slips and time-and-wage sheets are available for free download.

Employees and employers who are unsure about their workplace rights and obligations should visit www.fairwork.gov.au or contact the Fair Work Infoline on 13 13 94.

Small business owners can opt for priority service when calling the Fair Work Infoline by following the prompts.

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Fair Work Online: www.fairwork.gov.au

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