

## Sushi operator allegedly underpaid vulnerable workers in regional NSW

1 August 2017

The Fair Work Ombudsman has commenced legal action against the operators of three 'Tokyo Sushi' outlets in NSW for allegedly underpaying workers more than \$70,000.

Facing the Federal Circuit Court is Kiyoshi Hasegawa, who is involved in operating a number of Tokyo Sushi outlets in NSW and was allegedly involved in underpaying a total of 31 workers engaged across three outlets in the Newcastle and Central Coast regions.

Also facing Court are two companies of which Ms Hasegawa and her husband are sole directors of respectively, Hasegawa & Ye International Pty Ltd and Heiwa International Pty Ltd.

The Fair Work Ombudsman alleges 16 employees at two Tokyo Sushi outlets at the Erina Fair shopping centre in the Central Coast region were underpaid a total of \$48,318 over a period of just six months between January and July last year.

It is alleged that 15 employees at a Tokyo Sushi outlet at Fletcher, in Newcastle, were underpaid a total of \$22,567 between January and September last year.

The Fair Work Ombudsman alleges that many of the underpaid employees were more vulnerable to exploitation in the workplace.

Eight of the allegedly underpaid employees were juniors, including one 17-year-old worker on the Central Coast and seven workers aged between 16 and 20 at the Newcastle outlet.

Fair Work Ombudsman inspectors audited the three Tokyo Sushi outlets as part of a proactive compliance activity last year that involved inspectors visiting more than 40 sushi outlets across Northern NSW, Newcastle, Central Coast NSW, the Gold Coast and Canberra, to check workers were being paid correctly.

It is alleged inspectors found that pay rates at the three Tokyo Sushi outlets at Newcastle and the Central Coast did not comply with the Fast Food Industry Award 2010, with workers instead paid flat hourly rates ranging between \$9 and \$19 on weekdays, plus an additional 25 per cent on Saturdays and an additional 50 per cent on Sundays.

The approach allegedly led to underpayment of the minimum weekday rates, casual loadings and penalty rates for weekend and public holiday work. Superannuation and minimum engagement entitlements were allegedly also underpaid and record-keeping laws were allegedly contravened.

Fair Work Ombudsman Natalie James says legal action has been commenced because of the involvement of vulnerable workers and the blatant nature of the alleged underpayments.

"Employers should be aware that we treat the underpayment of young and overseas workers particularly seriously," Ms James said.

"Young workers and workers from migrant backgrounds can be more vulnerable to exploitation as they are often reluctant to complain or are less aware of their rights.

"My agency is committed to sending a message to all business operators that anyone who attempts to capitalise on these vulnerabilities can expect to face serious enforcement action," Ms James said.

Ms Hasegawa faces maximum penalties of up to \$10,800 per contravention and Hasegawa & Ye International Pty Ltd and Heiwa International Pty Ltd each face penalties of up to \$54,000 per contravention for a number of alleged contraventions of the Fair Work Act.

The Fair Work Ombudsman is also seeking Orders for full back-payment of the allegedly underpaid employees, who have been only partially back-paid.

In addition, the Fair Work Ombudsman is seeking Orders requiring the companies to commission an external audit of its compliance and rectify any underpayments found, and to display a workplace notice detailing workers' rights and alerting workers to the Fair Work Ombudsman's Record My Hours app.

A directions hearing is listed in the Federal Circuit Court in Sydney on August 4.

The 'Record My Hours' app, which equips workers with a record of the time they spend at their workplace by using geofencing technology to register when they arrive at work and when they leave, is aimed at tackling the persistent problem of underpayment of young workers and migrant workers around the country. The app is available for download from iTunes or Google Play stores.

In recognition that some employees are reluctant to complain about their workplace issues, the Fair Work Ombudsman now has an "Anonymous Report" function to allow the community to [confidentially report potential workplace breaches \(www.fairwork.gov.au/workplace-problems/fixing-a-workplace-problem/workplace-help-in-other-languages/report-a-workplace-issue-in-your-language\)](http://www.fairwork.gov.au/workplace-problems/fixing-a-workplace-problem/workplace-help-in-other-languages/report-a-workplace-issue-in-your-language) in English and 16 other languages.

The results of the Fair Work Ombudsman's proactive auditing activity focused on sushi outlets are currently being finalised.

Employers and employees seeking assistance can visit [www.fairwork.gov.au \(http://www.fairwork.gov.au/\)](http://www.fairwork.gov.au) or call the Fair Work Infoline on 13 13 94. An interpreter service is available on 13 14 50.

Resources on the website include a Pay and Conditions Tool (PACT) that employers can use to determine the pay rates applicable to their employees, including base pay rates, allowances, overtime and penalty rates.

Follow Fair Work Ombudsman Natalie James on Twitter [@NatJamesFWO](https://twitter.com/NatJamesFWO) (http://twitter.com/NatJamesFWO) , the Fair Work Ombudsman [@fairwork\\_gov\\_au](https://twitter.com/fairwork_gov_au) (http://twitter.com/fairwork\_gov\_au) or find us on Facebook [www.facebook.com/fairwork.gov.au](http://www.facebook.com/fairwork.gov.au) (http://www.facebook.com/fairwork.gov.au) .

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Call through the National Relay Service (NRS):

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