

Pizza Hut franchisee underpaid staff almost \$20,000

11 August 2017

The franchisee of a Pizza Hut outlet at Newcastle, in NSW, underpaid 24 employees a total of almost \$20,000, an investigation by the Fair Work Ombudsman has found.

The underpayments occurred at the Pizza Hut outlet on Hunter Street.

An investigation was commenced after six of the outlet's employees attended the Fair Work Ombudsman's Newcastle office and made underpayment allegations.

Fair Work inspectors found that 24 casual employees at the Newcastle Pizza Hut outlet were underpaid a total of \$19,762 between November, 2015 and May, 2016.

Most of the employees were juniors aged between 16 and 20. The underpaid employees also included international students from Pakistan and Kenya.

The employees performed a range of duties, including customer service, making pizzas, deliveries, cleaning the store and assisting to open and close the store.

The employees were paid low, flat rates that were unlawful because they undercut the minimum rates for ordinary hours, overtime and public holiday work that applied under the Fast Food Industry Award 2010 and an Agreement covering the outlet's staff.

Four of the workers were underpaid more than \$3000, with the largest individual underpayment being \$4791 of an international student from Kenya. Record-keeping and pay slip laws were also contravened.

At the time of the underpayments, store operator Bhavinkumar Patel was operating his first business since immigrating from India and was not fully aware of his obligations under Australia's workplace laws. He told inspectors that he had not received training on his obligations on workplace laws from the Pizza Hut head franchisor.

Mr Patel fully co-operated with inspectors. Mr Patel and Ambeshwar Pty Ltd have started rectifying the underpayments and have entered into an Enforceable Undertaking (EU) with the Fair Work Ombudsman.

Under the terms of the EU, Mr Patel and Ambeshwar have agreed to back-pay all employees in full by January 2018 via a back-payment plan and to take a range of steps to ensure future compliance, including commissioning independent audits of the outlet.

The Fair Work Ombudsman last year completed a compliance activity involving 34 Pizza Hut franchisees and identified widespread issues relating to the engagement of delivery drivers in the franchise network. Following the completion of all outstanding investigations arising from the compliance activity, Inspectors identified that of 32 franchisees engaging delivery drivers, there were 28 franchisees with non-compliance issues.

As a result of the compliance activity, the Fair Work Ombudsman commenced legal action against a Pizza Hut franchisee on the Gold Coast for allegedly engaging in sham contracting activity and underpaying an Indian delivery driver more than \$6000.

The compliance activity also led to the Fair Work Ombudsman entering into EUs with three Pizza Hut franchisees. There were also a number of compliance notices, infringement notices and letters of caution issued to non-compliant franchisees.

Fair Work Ombudsman Natalie James says her Agency is concerned about the lack of any meaningful response or commitment from Pizza Hut head office since publication of the findings of the Pizza Hut compliance activity on 27 January, 2017.

"Based on the response so far, I am not confident Pizza Hut head office is taking our concerns about non-compliance within its network seriously," she said.

Ms James says it is of particular concern that while the previous compliance activity had focused on issues relating to Pizza Hut delivery drivers, non-compliance issues now seem to be emerging with in-store Pizza Hut staff.

"If this non-compliance is replicated across the Pizza Hut network to the same extent of the delivery drivers, it would represent a significant failure to provide lawful wages and entitlements to the Pizza Hut workforce," she said.

"Given the seriousness and potential impact of non-compliance in the Pizza Hut franchise, I am disappointed that we have not seen

any concrete action from Pizza Hut head office.

"My agency will continue to target non-compliance in the Pizza Hut network, however our strong preference is to work with head office to prevent these instances from occurring in the first place."

Ms James says that in an environment where the public are demanding greater transparency and accountability by well-known franchise brands, it is crucial that franchise service networks are proactive in ensuring they have systems in place to promote and ensure compliance.

Ms James says the Fair Work Ombudsman remains keen to work with businesses that want to make a commitment to compliance with workplace laws part of their brand.

She noted that the Government's Fair Work Amendment (Protecting Vulnerable Workers) Bill 2017 would place additional obligations on franchisors with respect to workers within their franchising networks.

"Now is the time for franchise systems that care about their reputation to take steps to ensure their employees receive their lawful entitlements," she said. "The Fair Work Ombudsman will work with any franchise that is serious about doing the right thing by its workers."

Ms James also said the Fair Work Ombudsman continues to engage with representatives from the franchising sector about ways in which they can contribute to building a culture of compliance with workplace laws.

Employers and workers seeking advice or assistance can visit www.fairwork.gov.au or call the Fair Work Infoline on 13 13 94. An interpreter service is available on 13 14 50.

Fair Work Ombudsman's Pay and Conditions Tool (PACT) can assist business owners to calculate pay rates applicable to their business and templates for pay slips and time-and-wages sheets are available for free download. Information translated into 30 languages is available on the website.

Ms James's speech and media releases relating to the auditing activity, litigation and EUs referred to in this media release are available in the Fair Work Ombudsman's [media centre \(www.fairwork.gov.au/about-us/news-and-media-releases\)](http://www.fairwork.gov.au/about-us/news-and-media-releases) .

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Download the [Ambeshwar Pty Ltd Enforceable Undertaking \(DOCX 163.6KB\) \(www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-ambeshwar-pty-ltd-redacted.docx.aspx\)](http://www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-ambeshwar-pty-ltd-redacted.docx.aspx) (PDF 672.7KB) (www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-ambeshwar-pty-ltd-redacted.pdf.aspx)

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