

## Melbourne fine dining restaurant underpays overseas workers \$35,000

2 February 2017

A Melbourne fine dining restaurant is overhauling its workplace practices after a Fair Work Ombudsman investigation found it had underpaid six overseas workers more than \$35,000.

Fair Work Ombudsman inspectors conducted a proactive audit of Cafe Di Stasio, located on Fitzroy Street in St Kilda, last year following allegations of non-compliance in media reports.

Inspectors found the restaurant had underpaid four chefs and two bar staff a total of \$35,077 between September, 2015 and May, 2016.

Five of the workers were in Australia on 417 working holiday visas, with the other on a 457 temporary skilled worker visa. Four were young workers aged 24 or less.

Most of the underpayment related to a casual chef who was underpaid \$17,481.

The significant underpayments occurred over a relatively short period due to significant undercutting of the minimum hourly rates, overtime rates and penalty rates for weekend, public holiday, night and split-shift work the workers were entitled to under the Restaurant Industry Award.

For example, the casual chef worked 54 hours one week and was underpaid nearly \$800 as a result of being paid an average of \$20 an hour, despite being entitled to a minimum hourly rate of \$25.16 for ordinary hours, an evening shift rate of \$27.17 and weekend rates of up to \$35.23.

Record-keeping and pay slip laws were also breached.

Restaurant operator Ronnie Di Stasio cooperated with inspectors and promptly back-paid all workers in full.

As an alternative to legal action, Mr Di Stasio and his company Di Stasio Pty Ltd have also entered into an Enforceable Undertaking (EU) with the Fair Work Ombudsman aimed at achieving behavioural change and future compliance.

Under the EU, they will commission two professional external audits of pay practices this year, report the results to the Fair Work Ombudsman and rectify any issues discovered.

They will also display a workplace notice detailing their contraventions, apologise to affected employees and commission training on workplace relations laws for managerial staff.

They will also register with the Fair Work Ombudsman's My Account service for employers and provide evidence of implementing systems and processes to ensure future compliance.

Fair Work Ombudsman Natalie James says contraventions involving visa holders and young workers are treated particularly seriously because they can be vulnerable if they are not fully aware of their workplace rights or are reluctant to complain.

"There is no excuse for any business to underpay its staff, and visa holders are entitled to the same minimum rates as Australian workers," Ms James said.

In the 2015-16 financial year, the Fair Work Ombudsman recovered more than \$3 million for overseas workers, with \$1.37 million of this for 417 visa-holders.

Ms James says the Fair Work Ombudsman is also committed to improving compliance in the hospitality industry.

The Fair Work Ombudsman's three-year National Hospitality Industry Campaign, finalised last year, resulted in more than \$1.2 million being recovered for underpaid employees at restaurants, cafes and catering companies throughout Australia.

Employers and employees seeking assistance can visit [www.fairwork.gov.au](http://www.fairwork.gov.au) or contact the Fair Work Infoline on 13 13 94.

An interpreter service is available on 13 14 50 and information on the website is translated into 27 different languages.

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Download the Di Stasio Pty Ltd Enforceable Undertaking (DOCX 142KB) ([www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-di-stasio-pty-ltd-redacted.docx.aspx](http://www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-di-stasio-pty-ltd-redacted.docx.aspx)) (PDF 1.1MB) ([www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-di-stasio-pty-ltd-redacted.pdf.aspx](http://www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-di-stasio-pty-ltd-redacted.pdf.aspx))

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