

Further legal action related to popular Perth restaurant chain

15 June 2017

The Fair Work Ombudsman has commenced further legal action relating to the Han's Café chain in Perth, alleging staff at the Rockingham outlet - including several teenagers and overseas workers - were underpaid more than \$27,000.

Facing the Federal Court in Perth are Tac Pham Pty Ltd, the franchisee of the Rockingham Han's Café outlet, and the outlet's general manager, Cuc Thi Thu Pham.

It is alleged that 22 employees at the Rockingham Han's Café outlet were underpaid a total of \$27,920 between December 2014 and December 2015.

The legal action comes after the Fair Work Ombudsman last month secured \$37,500 in penalties in Court (www.fair-work.gov.au/about-us/news-and-media-releases/2017-media-releases/june-2017/20160601-hans-cafe-penalty) against the operator of the Han's Café chain, Tram Hoang Han, and two associated companies for record-keeping practices that were so poor they prevented the Fair Work Ombudsman from determining the full extent of underpayments of vulnerable overseas workers.

The latest legal action is the result of an investigation Fair Work Ombudsman inspectors commenced after receiving a tip-off during an auditing campaign in Perth's south.

Inspectors allegedly found that staff at the Han's Café Rockingham outlet were being paid various low, flat rates that were generally below the minimum lawful rates they were entitled to under the Restaurant Industry Award 2010.

The 22 allegedly underpaid employees include nine juniors who were aged between 17 and 19 and seven overseas workers from Vietnam. Most were in Australia on international student visas.

The employees were allegedly underpaid minimum rates for ordinary hours and also short-changed a split-shift allowance and penalty rates for weekend, public holiday and late night work. Pay slip laws were allegedly also contravened.

The workers were back-paid in full earlier this year.

It is alleged the underpayments occurred despite the Fair Work Ombudsman having educated Ms Pham and Tac Pham Pty Ltd in 2013 about minimum lawful Award wage rates after receiving an underpayment allegation from a worker.

Fair Work Ombudsman Natalie James says legal action has been commenced because vulnerable workers had allegedly been significantly short-changed despite the employer having been on notice of its obligations.

Tac Pham Pty Ltd faces penalties of up to \$54,000 per contravention and Ms Pham faces penalties of up to \$10,800 per contravention.

The Fair Work Ombudsman is also seeking a Court order for the company to commission workplace relations training for managerial staff.

The matter is listed for a directions hearing in the Federal Court in Perth on June 26.

Fair Work Ombudsman operational work relating to Han's Café outlets in Perth remains ongoing.

Ms James says exploitation of workers in franchises continues to be a concern for the Fair Work Ombudsman and she welcomed the Government's proposed new laws relating to underpayments within franchise networks.

In April this year, Ms James made a submission to a Senate Inquiry supporting the Fair Work Amendment (Protecting Vulnerable Workers) Bill 2017. Ms James stated that the package of measures contained in the Bill will go some way to giving the Fair Work Ombudsman the tools to combat the most serious worker exploitation.

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

Information to assist people from culturally and linguistically diverse backgrounds has been translated into 30 languages and is available on the website.

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