

Sour deal for a dozen workers at Gold Coast chocolate cafe

26 June 2017

An Oliver Brown chocolate café franchisee on the Gold Coast is facing Court, with the Fair Work Ombudsman alleging 12 employees – including seven overseas workers – were underpaid more than \$24,000.

Facing the Federal Circuit Court are Oliver Brown Soul Pty Ltd, which operates the Oliver Brown café at Surfers Paradise, and the café's former manager Steven Chung.

The Fair Work Ombudsman alleges one worker between January and August 2015 and 11 workers between June and September 2015 were underpaid a total of \$24,575 when they were employed at the cafe on a casual basis.

Seven of the employees were overseas workers, including four on 417 working holiday visas, with the others on a 457 skilled worker visa, 444 special category visa and a partner visa. Five of the workers were Korean nationals.

The workers performed duties including washing dishes, taking orders and making drinks and desserts. Four of the workers were juniors, including two aged 18, one aged 19 and another aged 20.

Fair Work Ombudsman inspectors audited the café after workers made underpayment allegations.

It is alleged inspectors found the use of flat rates resulted in workers variously being underpaid the minimum rates for ordinary hours, casual loadings, and penalty rates for weekend, public holiday, late night and early morning work they were entitled to under the Restaurant Industry Award 2010.

The largest underpayment was \$9188 of an adult 417 visa-holder from Korea who was paid flat rates of between \$10 and \$16.48 for all hours worked, despite being entitled to receive casual rates of up to \$23.09 for ordinary hours, \$27.71 on weekends and \$46.18 on public holidays, at the time.

One of the junior employees was paid flat hourly rates as low as \$13 despite being entitled to receive casual rates of up to \$16.16 for ordinary hours, \$19.40 on weekends and \$32.23 on public holidays.

Contraventions of pay slip laws are also alleged.

All employees have been back-paid in full, however Fair Work Ombudsman Natalie James says a decision was made to commence legal action because of the significant underpayment over a relatively short period and the involvement of a number of young workers.

"The use of discount flat rates is unacceptable and we treat exploitation of young workers very seriously because they can be vulnerable if they are not aware of their rights or reluctant to complain," Ms James said.

Oliver Brown Soul Pty Ltd faces penalties of up to \$54,000 per contravention, while Mr Chung faces penalties of up to \$10,800 per contravention.

The Fair Work Ombudsman is also seeking Court orders for Oliver Brown Soul Pty Ltd to commission an audit of its pay practices and workplace relations training for Mr Chung and other managers.

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

Employers and employees can seek assistance at www.fairwork.gov.au or contact the Fair Work Infoline on 13 13 94. A free interpreter service is available on 13 14 50.

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