

Sydney retailer faces Court for allegedly underpaying employee \$60,000

25 May 2017

The Fair Work Ombudsman has commenced legal action against a Sydney retailer for allegedly underpaying an employee \$60,000, despite having been warned about short-changing staff.

Facing the Federal Circuit Court is JPA Manchester Pty Ltd, which sells bed linen and homewares under the trading name of 'Benson Australia' at retail outlets in Sydney and online.

The Fair Work Ombudsman alleges the company underpaid a shop assistant who worked at its Redfern and Miranda stores \$60,904 over almost four years from January 2012 to October 2015.

The Fair Work Ombudsman investigated after the employee, a Chinese migrant, requested assistance, and allegedly found she had been paid flat rates ranging from \$9 to \$19.05 per hour.

However, under the General Retail Industry Award 2010 at the time, the employee was allegedly entitled to rates of up to \$18.99 for ordinary hours, \$23.74 on Saturdays, \$47.48 on public holidays and \$37.98 for overtime.

It is alleged that annual leave entitlements were also not paid and that record-keeping and pay slip laws were contravened.

The owner-operator of JPA Manchester, Jia Ping Ou, is also facing Court for his alleged involvement in the annual leave, record-keeping and pay slip contraventions.

It is alleged the employee was underpaid despite JPA Manchester and Mr Ou publicly committing to revamping their workplace practices to ensure compliance under the terms of an Enforceable Undertaking (EU) entered into with the Fair Work Ombudsman in 2014.

The EU was entered into after an investigation by the Fair Work Ombudsman found JPA Manchester had underpaid another Sydney employee, a Chinese national, more than \$27,000 between 2010 and 2014 after paying her as little as \$8 an hour.

Fair Work Ombudsman Natalie James says JPA Manchester allegedly flouting the commitments made under the EU was a key factor in the decision to commence legal action.

"It is completely unacceptable to continue to allegedly blatantly underpay an employee after being put on notice to comply," Ms James said.

JPA Manchester faces penalties of up to \$54,000 per contravention, and Mr Ou faces penalties of up to \$10,800 per contravention. The Fair Work Ombudsman is also seeking Court orders for JPA Manchester to back-pay the employee, commission an audit of its compliance with workplace laws and for Mr Ou and JPA Manchester's managerial staff to undertake workplace relations training.

An injunction restraining JPA Manchester from underpaying workers in future is also being sought. If the injunction is granted, the company could face contempt of court proceedings for any further underpayment contraventions proven in court.

A directions hearing is scheduled in the Federal Circuit Court in Sydney on June 9.

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.

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>).

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