

Hobart restaurant operator allegedly underpaid vulnerable international students

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The former operator of a Tasmanian restaurant is facing Court for allegedly underpaying vulnerable workers, despite having been put on notice to pay minimum wage rates.

The Fair Work Ombudsman has commenced legal action against Oya Waechter – who owned and operated Anatolia Turkish Restaurant in North Hobart until late last year – alleging she underpaid four employees a total of \$31,452.

Also facing the Federal Circuit Court is her husband, Peter Waechter, for his alleged involvement in some contraventions.

The workers who were allegedly underpaid include two Australians – a waitress aged 15 to 16 and an adult apprentice cook in her 60s. The Fair Work Ombudsman also claims that two international students – a food-and-beverage attendant from Malaysia and a kitchen attendant from Pakistan – were also underpaid.

The Fair Work Ombudsman discovered the alleged underpayments when it investigated following a request for assistance from the workers.

It is alleged that payment of wages was sporadic as wages were often paid late, or not at all, with the employees often having to make enquiries about the non-payment of their wages. For the amounts that were paid, the workers allegedly received a wide variation of hourly rates from fortnight to fortnight.

The practices allegedly led to significant underpayment of the minimum wage rates, overtime rates, casual loadings and penalty rates for weekend and public holiday work the employees were entitled to under the Restaurant Industry Award 2010.

The Fair Work Ombudsman alleges that most of the underpayments relate to the Malaysian student who was short-changed \$24,800 as a result of receiving effective hourly rates ranging from \$10.09 to \$25.34 over a 12-month employment period.

The Pakistani student was allegedly paid just \$250 for 102 hours of work – an effective hourly rate of \$2.45 an hour – resulting in a total alleged underpayment of \$2315.

The adult apprentice cook was allegedly underpaid \$3885 and the teenage waitress was allegedly underpaid \$451.77.

Acting Fair Work Ombudsman Kristen Hannah says a key factor in the decision to commence legal action was that alleged blatant underpayments of vulnerable workers had occurred.

"Allegations involving vulnerable workers receiving pay rates that equate to as little as \$2.45 an hour warrant the use of the most serious enforcement tools at our disposal," Ms Hannah said.

"We also treat cases involving underpayment of overseas workers particularly seriously because we are conscious that they can be vulnerable due to a lack of awareness of their entitlements, language barriers and a reluctance to complain."

Mr and Mrs Waechter face penalties of up to \$10,800 per contravention.

The Fair Work Ombudsman is also seeking Orders requiring Mrs Waechter to back-pay the employees in full and requiring Mr and Mrs Waechter to register with the My Account service at www.fairwork.gov.au and complete the education courses for employers.

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 and information and helpful materials on the website is translated into 30 different languages.

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