

7-Eleven franchisee in court after allegedly dismissing worker who refused cash-back

18 October 2017

A 7-Eleven Franchisee in Brisbane is facing court for allegedly dismissing a worker by removing him from the roster after he refused his employer's request to repay an amount he had been paid.

Balaji Australia Pty Ltd and current director and shareholder Madhav Ponnada will also face the Federal Circuit Court on allegations that false and misleading records were created during the employment of two employees and were later provided to Fair Work Inspectors during the course of their investigation.

It is alleged that the worker, an Indian national, was first employed in February 2015 as a casual and then engaged as a part-time employee between December 2015 and July 2016. During this time he accrued annual leave entitlements equivalent to \$731.06.

In July 2016 it is alleged the worker was then transferred to a casual employment relationship and was paid \$731.06 in accrued annual leave and leave loading from the preceding period in which he was engaged on a part-time basis.

The Fair Work Ombudsman alleges that Mr Ponnada, on behalf of the company, then made multiple requests for the worker to return the \$731.06 that had been paid.

It is further alleged that the day after the worker refused to repay this money, Mr Ponnada instructed a store manager to remove the employee from a rostered shift and advised the store manager that the employee no longer worked at the store.

The matter is listed for a directions hearing on 30 October 2017.

This is the tenth matter filed by the Fair Work Ombudsman involving a 7-Eleven franchisee with more than \$1 million in penalties ordered in cases to date.

Fair Work Ombudsman Natalie James says requiring workers to repay portions of their wages is an insidious practice.

"We are concerned that so called 'cash-back' schemes are being utilised to disguise the underpayment of some of the most vulnerable workers in our community," Ms James said.

"This is the type of behaviour that warrants serious enforcement action, such as litigation through the Courts."

The Fair Work Ombudsman is asking the Federal Circuit Court to impose penalties against Mr Ponnada and his company for several alleged contraventions of workplace laws as well as seeking compensation for the worker who was allegedly dismissed.

"Workers cannot be deprived of work for exercising their rights, regardless of whether they are engaged on a casual, part-time or full-time basis," Ms James said.

"We encourage anyone with information on alleged 'cash-back' schemes to come forward and assist us in our investigations."

In December, the Fair Work Ombudsman and 7-Eleven signed a [Proactive Compliance Deed \(www.fairwork.gov.au/about-us/our-role/enforcing-the-legislation/compliance-partnerships/list-of-proactive-compliance-deeds\)](http://www.fairwork.gov.au/about-us/our-role/enforcing-the-legislation/compliance-partnerships/list-of-proactive-compliance-deeds). The deed requires 7-Eleven to overhaul its systems and implement fully biometric time recording to prevent the falsification of records. The alleged record-keeping contraventions in this litigation occurred prior to the signing of this deed.

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 by calling 13 14 50 and information and helpful materials on the website is translated into 27 different languages.

Employees can [get help resolving workplace issues \(www.fairwork.gov.au/how-we-will-help/how-we-help-you/help-resolving-workplace-issues\)](http://www.fairwork.gov.au/how-we-will-help/how-we-help-you/help-resolving-workplace-issues) and also [report a workplace concern anonymously \(www.fairwork.gov.au/workplace-problems/fixing-a-workplace-problem/anonymous-report\)](http://www.fairwork.gov.au/workplace-problems/fixing-a-workplace-problem/anonymous-report) on the Fair Work Ombudsman's website.

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Editor's note:

Earlier this year, the Fair Work Ombudsman secured record penalties of \$532,000 against an Albury café owner and his business in a case involving two Indian workers who were coerced into paying back large portions of their wage to their employer. The workers were threatened with violence and deportation if they refused.

The Fair Work Ombudsman recently commenced legal action against the operator of a Perth curry house for allegedly requiring a Bangladeshi worker to repay thousands of dollars of his wages before dismissing him because he lodged a workers' compensation claim after injuring his back at work.

This follows a litigation initiated against the operator of a Sydney café for allegedly requiring an overseas worker to unlawfully pay-back thousands of dollars of her wages.

The Fair Work Ombudsman also is currently pursuing legal action in a matter in which an overseas worker employed as a cook on the Gold Coast was allegedly required to pay-back more than \$21,000 of her wages to her employer in a cashback scheme.

Media releases relating to the matters are available in the [Fair Work Ombudsman's media centre](http://www.fairwork.gov.au/about-us/news-and-media-releases) (www.fairwork.gov.au/about-us/news-and-media-releases) .

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Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

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