

Catering Director penalised for underpaying workers

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The former director of a contract catering company has been penalised \$50,100 for his role in underpaying workers at Wagga's Rules Club in regional NSW, following legal action by the Fair Work Ombudsman.

The Federal Circuit Court imposed the penalty against NSW man Mohammed Moseem Yasin, the former sole director and part-owner of A to Z Catering Solution Pty Limited, which is now in liquidation.

A to Z Catering Solution had earlier admitted underpaying seven employees a total of \$24,139 between July 2013 and April 2014. After a contested hearing, Judge Nicholas Manousaridis found Mr Yasin was directly involved in underpaying five of these employees a total of \$8,054.

The Court also found Mr Yasin was involved in a range of other breaches involving a total of eight employees, including providing false records to Fair Work Inspectors.

Fair Work Ombudsman Sandra Parker said the underpayments occurred despite Mr Yasin being on notice regarding record-keeping and minimum pay laws in his other companies.

"It is unacceptable that Mr Yasin underpaid workers despite being aware of his obligation to pay minimum Award rates of pay. We are clearly prepared to take action against individual directors for their involvement in underpaying workers and will use all provisions of the Fair Work Act to hold individuals to account," Ms Parker said.

A to Z Catering Solution employed the eight employees to work as cooks and waiters at the Rules Club, under a contract it held at the time with the Riverina Australian Football Club to run the venue's restaurant. The employees included a teenager, aged 17, and three aged in their early 20s.

"Employers should note that we are prioritising matters involving requests for assistance from young workers as they can be particularly vulnerable in the workplace and reluctant to complain. We encourage any workers with concerns about their wages or entitlements to contact the Fair Work Ombudsman," Ms Parker said.

Most of the underpayments were the result of casual employees being paid flat rates of \$20 an hour and \$10 an hour to a part-time employee, paid below "apprentice rates" despite not being correctly registered as an apprentice.

The flat rates were not sufficient to cover the minimum hourly rates and weekend penalty rates the casual employees were entitled to at the time under the Registered and Licensed Clubs Award.

The casual employees were entitled to receive up to \$39 an hour for some hours worked. Superannuation, annual leave and clothing entitlements were also underpaid and there was a failure to provide staff with Fair Work Information Statements and pay slips.

Mr Yasin was also involved in breaching workplace laws by knowingly providing false records to Fair Work inspectors and in systematic record-keeping failures that impeded inspectors in determining amounts owed to employees.

A to Z Catering back-paid the workers in full after the Fair Work Ombudsman commenced legal proceedings.

The Fair Work Ombudsman initially investigated after the employees contacted the Agency alleging they had been underpaid.

Judge Manousaridis found that Mr Yasin had been involved in "systematically and regularly" failing to provide employees with their minimum pay rates.

Judge Manousaridis found that "Mr Yasin was aware of the Award, its coverage and its basic terms" but that "he had no intention of acquainting himself with the terms of any award that might have applied".

Judge Manousaridis found there was no evidence of any contrition by Mr Yasin and no significant co-operation with the FWO.

Noting that Mr Yasin has current directorships, Judge Manousaridis found that there was a need to impose a penalty that deterred Mr Yasin from further breaches and to "signal to employers who might be tempted to seek a competitive advantage at the expense of their employees that there is a significant risk to their succumbing to such a temptation".

Employers and employees can visit www.fairwork.gov.au or call the Fair Work Infoline on 13 13 94 for free advice and assistance

about their rights and obligations in the workplace. A free interpreter service is available on 13 14 50.

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