

Sushi supplier to back-pay a Chinese worker

18 July 2018

A Perth wholesale sushi supplier will back-pay a worker more than \$13,000 and overhaul its workplace practices under a new Enforceable Undertaking (EU) signed with the Fair Work Ombudsman.

Prime Enterprise Holdings Pty Ltd operates a wholesale sushi preparation factory, catering services, and ten Asian fast food outlets and restaurants across Western Australia.

The former worker, a Chinese national working in Australia on a 457 spousal visa, was employed as a part-time sushi-maker at the company's wholesale food preparation factory located in O'Connor. The worker was underpaid \$13,047.88 over 11 months.

The worker lodged a request for assistance with the Fair Work Ombudsman following concerns that she was not being paid the correct rate for nightshift work.

A Fair Work Ombudsman investigation found that the worker was paid flat rates of between \$12 and \$18.29 per hour. In fact, she was entitled to significantly higher casual rates under the Food, Beverage and Tobacco Manufacturing Industry Award 2010.

According to the Award, she should have been paid hourly base rates of up to \$23.51. She should have also received up to \$47.02 per hour for Sunday shift work and up to an additional \$7.05 per hour for night shift allowances.

The company and its Director, BaoRong Jia, cooperated with the Fair Work Ombudsman investigation and entered into an EU to ensure future workplace compliance. Under the EU, the worker will be fully back-paid by the end of this month.

The EU also includes a requirement for the company to engage, at its own expense, an external auditor to conduct two audits checking compliance with workplace laws across a range of its sites. They must also make copies of the applicable Award available to all employees.

The company is also required to ensure that all staff with responsibility for human resources, recruitment or payroll functions undertake workplace relations training and complete the Fair Work Ombudsman's [online training \(www.fairwork.gov.au/how-we-will-help/online-training/default\)](http://www.fairwork.gov.au/how-we-will-help/online-training/default).

Fair Work Ombudsman Sandra Parker said that the EU imposes obligations on the company to substantially improve compliance with workplace laws, which will benefit more than 90 employees.

"The Enforceable Undertaking ensures that Ms Jia and Prime Enterprise Holdings take significant steps to improve workplace practices, which will make a big difference for employees across the company's operations," Ms Parker said.

Ms Parker said that the Fair Work Ombudsman takes matters involving visa-holders and workers from culturally and linguistically diverse backgrounds particularly seriously.

"This case serves as an important reminder to all business operators in Australia that it is never OK to pay migrants or visa holders a going rate that undercuts the lawful minimum wage rates that apply across Australia," she said.

Prime Enterprise Holdings has also agreed to donate \$5000 to the Metropolitan Migrant Resources Centre, which supports migrants entering the workforce. The donation aims to assist in the promotion of compliance with Australian workplace laws within the migrant community.

"Every single worker in Australia has the same workplace rights, regardless of their citizenship, ethnicity or cultural and linguistic background," Ms Parker said.

Prime Enterprise Holdings must now send a letter of apology to the underpaid worker. They must also display a notice regarding the EU within all workplaces controlled by the company, and an online notice on the company Facebook page and websites.

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.

Information on the website can be translated into 40 languages other than English and the Fair Work Ombudsman's popular [Anonymous Report function \(https://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/july-2017/20170731-migrant-worker-anon-report-tool\)](https://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/july-2017/20170731-migrant-worker-anon-report-tool) is available in 16 languages other than English, allowing visa-holders to report workplace concerns

anonymously to the agency in their own language.

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Download the [Prime Enterprise Holdings Pty Ltd Enforceable Undertaking \(DOCX 142.5KB\)](https://www.fairwork.gov.au/ArticleDocuments/1179/enforceable-undertaking-prime-enterprise-holdings-pty-ltd-redacted.docx.aspx) (https://www.fairwork.gov.au/ArticleDocuments/1179/enforceable-undertaking-prime-enterprise-holdings-pty-ltd-redacted.docx.aspx) (PDF 2.3MB) (https://www.fairwork.gov.au/ArticleDocuments/1179/enforceable-undertaking-prime-enterprise-holdings-pty-ltd-redacted.pdf.aspx)

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Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

Need language help?

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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