

## \$192,780 in penalties for Brisbane 7-Eleven outlet

([#twitter](#)) 5 June 2018

The Fair Work Ombudsman has secured almost \$200,000 in penalties against the operators of a 7-Eleven outlet in Brisbane for short-changing overseas workers and creating false records to try to cover it up.

Avinash Pratap Singh, the manager and part-owner of the 7-Eleven fuel outlet at 508 Vulture Street, East Brisbane – has been penalised \$32,130 and a company he is a director of, S & A Enterprises (QLD) Pty Ltd, has been penalised an additional \$160,650.

The penalties, imposed in the Federal Circuit Court, are the result of an investigation and subsequent legal action by the Fair Work Ombudsman.

Fair Work Ombudsman inspectors investigated following media coverage relating to the outlet in 2015.

Inspectors found that the employees - both international students from India aged in their mid-20s – had been underpaid a total of \$5593 for short periods of work in 2014.

In Court, Singh and S & A Enterprises admitted paying the employees flat hourly rates as low as \$14.14 an hour, resulting in the underpayment of minimum hourly rates, overtime rates, casual loadings and penalty rates for weekend and public holiday work.

One employee was underpaid \$4439, which was 25 per cent of his entitlement, over a five-month period, while the other was underpaid \$1154, which was 41 per cent of his entitlement, over a seven-week period. The underpayments have been rectified.

Judge Vasta said the exploitation of the workers gave the operators of the 7-Eleven franchise outlet “a leg-up against legitimate businesses that they do not deserve”.

“Not only is it blight upon the system for workers to be exploited in this way, it also enables a business such as that of the Respondents to unfairly profit,” Judge Vasta said.

Singh and S & A Enterprises also made false entries into the 7-Eleven head office payroll system and the company knowingly provided false time-and-wage records to the Fair Work Ombudsman.

Judge Vasta said the entering of inaccurate hours and pay rates into the payroll system “created records that appeared to show that the employees were paid at the rates of pay prescribed by the modern award, including penalty rates and overtime rates of pay, which actually bore no relation to their hours of work or actual hourly rates”.

Judge Vasta said the record keeping contraventions were “an appalling breach of the standards that are needed for businesses to operate fairly in this country”.

“But not only did that mean that there were false records that were kept, it meant that when the Fair Work Ombudsman wanted those records, they were given false records, which, as I have already pointed out, has meant that the investigation was a lot more arduous and tedious than it should have been,” Judge Vasta said.

The Fair Work Ombudsman had to use fuel dip and cash register sign-in and sign-out records to determine the employees’ correct hours of work.

Singh and the company also contravened workplace laws by failing to fully comply with two Notices to Produce issued by the Fair Work Ombudsman, with Judge Vasta saying he took these contraventions “very seriously”.

In addition to imposing the penalties, Judge Vasta ordered Singh and S & A Enterprises to pay \$2747 in Fair Work Ombudsman legal costs.

S & A Enterprises was also ordered to commission an audit of its compliance with workplace laws and resolve any non-compliance issues discovered, and to display an in-store notice containing information about minimum employee entitlements.

Since 2014, the Fair Work Ombudsman has commenced 10 legal proceedings against 7-Eleven franchisees.

The penalties against Singh and S & A Enterprises are the latest of a string of penalties secured by the Fair Work Ombudsman against 7-Eleven franchisees nationally, including six cases in Brisbane.

In April this year, penalties totalling \$192,961 were imposed against the operators of two 7-Eleven stores in the Brisbane CBD for

short-changing 21 workers by more than \$31,000 (<https://www.fairwork.gov.au/about-us/news-and-media-releases/2018-media-releases/april-2018/20180410-vipper-and-viplus-mr>) .

Last year, the former operator of a 7-Eleven outlet at West End was penalised \$168,000 for short-changing workers and falsifying records to try to conceal the underpayments. (<https://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/july-2017/20170725-js-top-penalty>)

In 2016, the Fair Work Ombudsman secured penalties of more than \$400,000 – a national record at the time - in a legal action against one Brisbane 7-Eleven operator. (<https://www.fairwork.gov.au/about-us/news-and-media-releases/2016-media-releases/june-2016/20160621-mai-penalty>)

In 2015, the former operator of a 7-Eleven retail store in Brisbane was penalised after underpaying an international student more than \$21,000 and refusing to co-operate with the Fair Work Ombudsman. (<https://www.fairwork.gov.au/about-us/news-and-media-releases/2015-media-releases/august-2015/20150804-haider-penalty>)

7-Eleven entered into a Proactive Compliance Deed (<https://www.fairwork.gov.au/about-us/our-role/enforcing-the-legislation/compliance-partnerships/list-of-proactive-compliance-deeds>) with the Fair Work Ombudsman in late 2016, committing to a range of measures designed to ensure all its workers receive their lawful entitlements through strong accountability for all operators across its franchise network and supervision by the Fair Work Ombudsman.

Under the Fair Work Amendment (Protecting Vulnerable Workers) Act 2017, franchisors can now be held responsible for contraventions by a franchisee.

Fair Work Ombudsman Natalie James said today: “7-Eleven has learnt the hard way what happens when you neglect workplace compliance in your network or supply chain. Franchisors must now take reasonable steps to stop non-compliance with work laws in their businesses or risk being found directly liable under the new laws.”

Ms James says business operators should be aware that the Fair Work Amendment (Protecting Vulnerable Workers) Act 2017 has also introduced significantly higher penalties for a range of contraventions.

Penalties of up to \$630,000 per contravention for a company and \$126,000 per contravention for an individual now apply in relation to serious exploitation of workers.

Penalties for serious record-keeping breaches have also increased.

“A reverse onus of proof can also now apply, meaning that employers who don’t meet record-keeping or pay slip obligations and can’t give a reasonable excuse will need to disprove allegations of underpayments made in a court,” Ms James said.

“If you have failed in your obligations to keep records - obligations the courts have held to be ‘the bedrock of compliance’ - any records kept by employees will be the first reference point for the Fair Work Ombudsman and the Court.”

The new laws and penalties apply to conduct that has occurred since the Fair Work Amendment (Protecting Vulnerable Workers) Act 2017 came into effect in September 2017.

The Fair Work Ombudsman last year released the ‘Record My Hours’ smartphone app (<https://www.fairwork.gov.au/how-we-will-help/how-we-help-you/record-my-hours-app>) , which uses geofencing technology to provide workers with a record of the time they spend at their workplace. The app can be downloaded from the App Store and Google Play.

“We see far too many examples of records that are either deliberately misleading or sub-standard and the app is a valuable back-up for workers when employers failed to meet their record-keeping obligations,” Ms James said.

Employers and employees can seek assistance at [www.fairwork.gov.au](http://www.fairwork.gov.au) or contact the Fair Work Infoline on 13 13 94. Small business callers can opt to receive priority service via the Small Business Helpline and a free interpreter service is available on 13 14 50.

The Fair Work Ombudsman has also recently launched a Small Business Showcase - [www.fairwork.gov.au/smallbizshowcase](http://www.fairwork.gov.au/smallbizshowcase) (<http://www.fairwork.gov.au/smallbizshowcase>) - which is a virtual hub providing a wealth of resources for small businesses seeking information about their workplace obligations.

Resources available include the Pay and Conditions Tool (PACT) (<https://calculate.fairwork.gov.au/>) , which provides advice about pay, shift, leave and redundancy entitlements and there are templates for pay slips and time-and-wages records.

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>) , available in 16 languages other than English, allows visa-holders to report workplace concerns anonymously to the agency in their own language.

The Fair Work Ombudsman recently published an open letter (<https://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/september-2017/20170925-international-students-release>) to international students to encourage them to seek free

help from the agency if they experience any issues while working in Australia.

“We are seeking to raise awareness among international students that in line with an agreement between the Fair Work Ombudsman and the Department of Immigration and Border Protection, you can seek our assistance without fear of your visa being cancelled, even if you’ve worked more hours than you should have under your visa,” Ms James said.

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Fair Work Infoline: 13 13 94

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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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