

FWO takes Crust pizza franchisee to Court

4 October 2018

The Fair Work Ombudsman has commenced legal action in the Federal Circuit Court against a Crust Gourmet Pizza Bar franchisee in Melbourne, alleging it underpaid seven employees a total of \$35,725.

After receiving a request for assistance from an employee, inspectors investigated the Cheltenham Crust outlet owned by Desire Food and company director and part-owner Chern Ming “Rick” Lee.

The Fair Work Ombudsman alleges that this employee had been underpaid a range of minimum entitlements under the Fast Food Industry Award 2010 between October 2013 and May 2016. Alleged underpayments total \$30,416 and arose from a failure to pay minimum ordinary hourly rates, casual loadings, annual leave entitlements, a special clothing allowance and penalty rates for night-time, weekend and public holiday work.

The investigation found similar alleged breaches for six other employees with underpayments ranging from \$20 and \$2,481 between May and August 2017.

The Fair Work Ombudsman also alleges that Desire Food and Mr Lee breached workplace laws by providing inspectors with false and misleading records that showed employees had been paid higher rates than was actually the case.

Further alleged breaches include not paying for meal breaks and a transport allowance, failing to engage casual employees for a minimum of 3 hours, not issuing pay slips, failing to issue pay slips that complied with the Fair Work Regulations 2009 and failing to adhere to frequency-of-pay laws.

All seven Crust employees worked as delivery drivers or pizza makers and at least three of these employees were living in Australia on student visas. One was 17 when the alleged conduct occurred.

“The Fair Work Ombudsman has taken a fast food franchisee to court today because we have a strong focus on protecting the workplace rights of vulnerable workers in Australia. We are conscious that age, language and cultural barriers, a lack of awareness about workplace entitlements and a reluctance to complain can create difficulties for some workers,” Fair Work Ombudsman Sandra Parker said.

“More broadly, it is a priority for the Fair Work Ombudsman to ensure that fast food, restaurant and cafe workers receive their correct wages and entitlements. Improving workplace compliance across the sector will help to eliminate the unfair competitive advantage gained by employers who underpay staff,” Ms Parker said.

Desire Food Pty Ltd faces penalties of up to \$63,000 per contravention and Mr Lee faces penalties of up to \$12,600 per contravention. The FWO is also seeking court orders for Desire Food to commission and report on an audit of its compliance with workplace laws, and undertake workplace relations training for managers.

Employers and employees seeking assistance can visit www.fairwork.gov.au or call the Fair Work Infoline on 13 13 94. An interpreter service is available on 13 14 50.

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NOTE: Desire Food and Mr Lee no longer own the Crust Cheltenham store. The Fair Work Ombudsman makes no allegations against the current owner.

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