

Wok Me penalised for underpayment

21 September 2018

The Fair Work Ombudsman has secured \$72,576 in penalties against the former operators of a fast food outlet in northern Queensland for underpaying a 71-year-old employee.

The Federal Circuit Court ordered a \$12,096 penalty to Luke McGrath, who formerly owned and operated several 'Wok Me' outlets in Queensland and the ACT, selling noodle, rice and sushi dishes. His company, Wok Me Corporate NQ Pty Ltd has been penalised an additional \$60,480.

Mr McGrath and his company admitted to underpaying a cook, then aged 71, at the Wok Me outlet in Rockhampton a total of \$12,658 over a period of just four months in 2016.

The employee is an Australian citizen from a non-English-speaking background, who was born and raised in China. The significant underpayment over such a short period was a result of the worker not being paid any wages for eight of the weeks he worked.

When the employee was paid wages, the flat rates he was paid - ranging from \$20.92 to \$25.20 per hour - sometimes undercut the minimum hourly rate for ordinary hours outlined in his Individual Flexibility Agreement made under the Fast Food Industry Award 2010.

Overtime, annual leave and superannuation entitlements were also underpaid and record-keeping and pay slip laws were breached. The worker has now been back-paid in full.

Fair Work Ombudsman Sandra Parker said the agency investigated the matter after they were contacted by the employee for assistance.

"Mature age employees can be vulnerable in the workplace as they face fewer opportunities and are often reluctant to complain. The Fair Work Ombudsman took court action against Wok Me because we prioritise matters involving the underpayment of vulnerable employees."

"All businesses are legally obliged to ensure they are aware of the minimum wage rates and entitlements for all of their employees. Companies must pay workers the minimum wage rates that apply to their position for every hour of work they perform," Ms Parker said.

In addition to imposing the penalties, Judge Gregory Egan ordered Mr McGrath to commission external audits of Individual Flexibility Agreements used at businesses he is involved in operating and to register with the Fair Work Ombudsman's My Account portal and complete all education courses for employers in the Online Learning Centre.

Employers and employees, including visa-holders and those from culturally and linguistically diverse backgrounds, seeking assistance can visit www.fairwork.gov.au or contact the Fair Work Infoline on 13 13 94.

An interpreter service is available on 13 14 50 and information on the website is translated into 40 different languages.

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Contact us

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Call through the National Relay Service (NRS):

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