

## Fremantle restaurant taken to court

12 December 2019

The Fair Work Ombudsman has commenced proceedings in the Federal Circuit Court in Perth against the Soma Kitchen restaurant in Fremantle, Western Australia, and its director.

Facing court is the company that operated the restaurant, Soma Kitchen Pty Ltd, and the company's director, Mr Giancarlo Daniele.

The workplace regulator alleges Soma Kitchen Pty Ltd and Mr Daniele breached the Fair Work Act by failing to comply with a Compliance Notice requiring the company to calculate money owed to an employee and then ensure they were back-paid.

A Fair Work Inspector conducted an investigation into Soma Kitchen following a request for assistance from the employee. The Fair Work Inspector formed a reasonable belief that the employee was paid just \$212.50 despite completing approximately 146 hours of work at the restaurant between 21 May and 5 June 2019.

The FWO issued a Compliance Notice to Soma Kitchen requiring the business to identify the employee's status and classification under the Restaurant Industry Award 2010, calculate how much he should have been paid, pay the employee back their unpaid wages and superannuation, and provide evidence to the FWO confirming the employee had been repaid.

Soma Kitchen and Mr Daniele failed to undertake the actions set out in the Compliance Notice.

Fair Work Ombudsman Sandra Parker said businesses that fail to act on Compliance Notices face significant court-imposed fines.

"Under the Fair Work Act, inspectors can issue a compliance notice if they have a reasonable belief that an employer has breached workplace laws. They're an important tool we use to get underpaid workers back their money," Ms Parker said.

"We're taking this action to ensure the affected employee gets the pay and superannuation they earned and deserve."

"The Fair Work Ombudsman is cracking down on underpayments in the restaurant industry and we urge all employers to check that their staff are being paid correctly before we come knocking. Any workers with concerns should contact us," Ms Parker said.

The FWO is seeking penalties against Soma Kitchen and Mr Daniele. The company faces a maximum penalty of \$31,500, while Mr Daniele faces a maximum penalty of \$6,300.

The FWO is also seeking a Court Order requiring the company to act on the Compliance Notice by calculating and paying amounts owed to the worker.

A directions hearing has been listed in the Federal Circuit Court for 13 February 2020.

Know a workplace that isn't doing the right thing but don't want to get involved? [Report \(www.fairwork.gov.au/workplace-problems/fixing-a-workplace-problem/anonymous-report/anonymous-tipoff\)](http://www.fairwork.gov.au/workplace-problems/fixing-a-workplace-problem/anonymous-report/anonymous-tipoff) it to us anonymously – in your language.

The FWO has developed [new interactive tools \(www.fairwork.gov.au/find-help-for/fast-food-restaurants-cafes\)](http://www.fairwork.gov.au/find-help-for/fast-food-restaurants-cafes) for the fast food, restaurant and café sector to make it easier to access information about key workplace entitlements.

Employers and employees can visit [www.fairwork.gov.au](http://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.

Follow the Fair Work Ombudsman [@fairwork\\_gov\\_au](https://twitter.com/fairwork_gov_au) [ⓧ](http://twitter.com/fairwork_gov_au) ([http://twitter.com/fairwork\\_gov\\_au](http://twitter.com/fairwork_gov_au)) or find us on Facebook [www.facebook.com/fairwork.gov.au](https://www.facebook.com/fairwork.gov.au) [ⓧ](http://www.facebook.com/fairwork.gov.au) (<http://www.facebook.com/fairwork.gov.au>) .

Sign up to receive the Fair Work Ombudsman's media releases direct to your email inbox at [www.fairwork.gov.au/mediareleases](http://www.fairwork.gov.au/mediareleases) ([www.fairwork.gov.au/mediareleases](http://www.fairwork.gov.au/mediareleases)) .

Media inquiries:

Michael Anderson, Assistant Media Director

Mobile: 0409 120 830

[michael.anderson@fwo.gov.au](mailto:michael.anderson@fwo.gov.au) (<mailto:michael.anderson@fwo.gov.au>)

## Contact us

Fair Work Online: [www.fairwork.gov.au](http://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

---

The Fair Work Ombudsman is committed to providing advice that you can rely on. The information contained on this website is general in nature. If you are unsure about how it applies to your situation you can call our Infoline on 13 13 94 or speak with a union, industry association or workplace relations professional. Visitors are warned that this site may inadvertently contain names or pictures of Aboriginal and Torres Strait Islander people who have recently died.