

Sushi outlets allegedly underpaid workers \$694,000

8 February 2019

The Fair Work Ombudsman (FWO) has commenced legal action against the operators of three Hero Sushi takeaway outlets for allegedly underpaying 94 workers and allegedly creating false records to provide to Fair Work Inspectors during their investigation.

The FWO has taken HSCC Pty Ltd, HSCK Pty Ltd and HSPF Pty Ltd to the Federal Court, who are the operators of Hero Sushi outlets in Newcastle, Canberra and the Gold Coast respectively.

In total, the FWO alleges that 94 workers across the three outlets were underpaid \$694,628 between April 2015 and July 2016. Many of the workers were young overseas workers, including Korean and Japanese nationals on international student and working holiday visas.

Fair Work Ombudsman Sandra Parker said the large number of employees allegedly underpaid in this matter was alarming and very serious conduct.

“The FWO considers all allegations of worker exploitation seriously, particularly matters involving migrant workers who may have little understanding of their workplace rights or how to seek help. Employers who deliberately contravene Australia’s workplace laws will be found out and could face legal action and significant financial penalties from the Court.”

“The FWO urges migrant workers who are concerned about their wages or entitlements to contact us. All workers in Australia have the same rights at work, regardless of citizenship or visa status. We have an agreement with the Department of Home Affairs where visa holders can ask for our help without fear of their visa being cancelled,” Ms Parker said.

Fair Work Inspectors discovered the underpayments when auditing the Hero Sushi outlets at Kotara in Newcastle and Pacific Fair on the Gold Coast, and the Hero Sushi kiosk at the Canberra Centre during a proactive activity targeting sushi businesses in 2016.

During these audits, inspectors found many workers were paid flat rates for all hours worked – some as little as \$12 per hour. Other workers received fortnightly wages that were insufficient to cover their minimum entitlements under the Fast Food Industry Award 2010.

It is alleged the operators failed to pay minimum hourly rates, casual loadings, penalty rates, overtime, clothing allowances, annual leave entitlements and superannuation. The employers also allegedly failed to provide the workers with payslips.

The FWO also alleges the operators provided inspectors with false or misleading records showing inaccurate hours of work and showing employees had been paid higher rates and superannuation, when that was not the case.

Also facing court are company directors Deuk Hee “William” Lee and Hokun “Robert” Hwang, and payroll officers employed at Hero Sushi head office, Chang Seok “Tommy” Lee, Ji Won “Brian” Cho and Jung Sun “Jimmy” Kim. The FWO alleges that each aided and abetted or was knowingly concerned in some of the companies’ breaches of workplace laws.

HSCC Pty Ltd, HSCK Pty Ltd and HSPF Pty Ltd face penalties of up to \$54,000 per contravention.

The maximum penalty for individuals is up to \$10,800 per contravention.

It is alleged that part of the underpayment is still outstanding. The FWO is seeking Court orders requiring that outstanding back-payments and superannuation are paid, and that the three companies undertake an external audit of compliance with workplace laws.

The matter is listed for a directions hearing in the Federal Court in Sydney on March 12.

Employers and employees can visit 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.

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Note: The Hero Sushi outlets named in these proceedings are located at Shop 1030, Westfield Shopping Centre, Cnr Park Avenue and Northcott Drive, Kotara NSW; Shop CL10, 148 Bunda Street, Canberra City ACT; and Shop K016 Australia Fair, 42 Marine Parade, Southport Queensland.

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