

Sushi operator penalised for underpayments

4 July 2019

The Fair Work Ombudsman has secured \$124,416 in penalties against the operator of a chain of sushi outlets for deliberately underpaying migrant workers in Canberra.

Rebecca Yi Jeong Shin, who owns and operates 'Sushi Bay Belconnen' in Canberra, has been penalised \$20,736 and her company Sushi Bay ACT Pty Ltd has been penalised a further \$103,680 by the Federal Circuit Court.

The penalties were imposed after Ms Shin and Sushi Bay ACT Pty Ltd admitted to underpaying 22 employees at Sushi Bay Belconnen a total of \$18,671 between November 2015 and March 2016. The employees were underpaid amounts ranging from \$103 to \$1992, which have been repaid in full.

Most of the underpaid employees were Korean nationals who were in Australia on working holiday and student visas. Four of the workers were aged between 17 and 19.

Ms Shin had previously been put on notice by the Fair Work Ombudsman about underpayments. In May 2015, she was formally cautioned that enforcement action could be taken against her for any future contraventions of workplace laws.

Fair Work Ombudsman Sandra Parker said Ms Shin's conduct exploited vulnerable workers who were young and/or migrants.

"Addressing exploitation of vulnerable workers and non-compliance in the fast food, restaurant and café sector are key compliance and enforcement priorities (<https://www.fairwork.gov.au/about-us/news-and-media-releases/2019-media-releases/june-2019/20190603-aig-pir-media-release>) for the Fair Work Ombudsman," Ms Parker said.

"We will continue to conduct audits across the fast food, restaurant and café sector and we will hold employers accountable if they are not meeting their lawful obligations."

Fair Work Ombudsman inspectors discovered the underpayments at Sushi Bay Belconnen when they audited more than 40 sushi outlets across Canberra, South-East Queensland, the Hunter, Central Coast, Coffs Harbour and North Coast regions in NSW.

Inspectors found that pay rates at Sushi Bay Belconnen did not comply with the Restaurant Industry Award 2010. Affected workers did not receive lawful minimum weekday rates, casual loadings and penalty rates for weekend and public holiday work. Leave entitlements were also underpaid and further breaches relating to making part-time agreements and record-keeping were discovered.

Judge Brana Obradovic found that the matter involved deliberate conduct that included the underpayment of "basic and fundamental entitlement[s]".

"The Court finds that the contravening conduct was deliberate in light of [Ms Shin's] admitted knowledge, prior audits, history of employee complaints and the education provided by the Fair Work Ombudsman," Judge Obradovic said.

Judge Obradovic also ordered Sushi Bay ACT Pty Ltd to commission an external audit of its compliance and rectify any underpayments found and to commission workplace relations training for Ms Shin, senior managers and payroll staff.

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