

Melbourne cafes back-pay 26 workers

14 June 2019

The operators of cafes in Richmond and Brunswick have back-paid 26 employees \$24,947 and will be under close scrutiny for three years after a Fair Work Ombudsman investigation.

Café Touchwood Pty Ltd, trading as Café Touchwood in Richmond, and one of its directors Ms Cindy Huynh have committed to improve their compliance with workplace laws by signing up to a Court-Enforceable Undertaking (EU).

Cafecino Enterprise Pty Ltd, trading as A Minor Place café in Brunswick, has also entered into an EU, together with Ms Huynh, who is also a director of that company, and her husband Mr Duy Phuong Dang, a shareholder and the business's manager.

Fair Work Inspectors found the companies each paid unlawfully low flat rates between January and April last year, with part-time employees at each café receiving about \$20 per hour, and Café Touchwood casual employees receiving between \$17 and \$22 per hour.

This led to underpayments of part-time employees' minimum rates for ordinary hours, overtime, and weekend and public holiday penalty rates under the Restaurant Industry Award 2010. Part-time employees were also not provided various annual leave entitlements, and casual employees at Café Touchwood failed to receive their owed casual loading.

Inspectors investigated each cafe after a media report alleging underpayments at Café Touchwood.

Café Touchwood admitted to underpaying \$22,313 owed to 17 employees, with a largest individual underpayment of \$3,852. This worker, a full-time chef who turned 21 during the audit period, was paid an \$18.50 flat rate despite being owed a \$21.29 base rate and up to \$42.58 for overtime hours.

A Minor Place admitted to underpaying nine employees \$2,633, with a largest individual underpayment of \$598. All underpayments have been rectified.

Across the cafes, 23 of the 26 underpaid employees were young workers aged 25 or younger, including a 17-year-old at Café Touchwood. Some underpaid workers were visa holders, including from South Korea, Germany, Japan, the UK and India, with some on student visas.

Under the EUs, each company is required to make a declaration each six months for three years confirming that employees are receiving their minimum entitlements. They must also engage an external professional to complete three audits of the pay and conditions of all employees in 2019 and 2020, rectify any underpayments found, and commission workplace relations training for managers.

Fair Work Ombudsman Sandra Parker said the Court-Enforceable Undertakings ensured extensive scrutiny for Ms Huynh's companies going forward.

"We have no tolerance for employers who think they can pay unlawfully low flat rates of pay to young or migrant workers, who can often be vulnerable."

"These court-enforceable undertakings mean the companies have not only had to pay back the money owed to their employees, but will also face ongoing close attention by the FWO," Ms Parker said.

Under the EUs, the two companies will also make a combined contrition payment of \$8,000 to the Commonwealth Government's Consolidated Revenue Fund.

"Improving compliance in the fast food, restaurant and café sector is a priority for the agency and we encourage any workers with concerns about their pay to contact us," Ms Parker said.

The FWO has developed interactive tools summarising the key entitlements provided in the Fast Food Industry and Restaurant Industry awards, available at www.fairwork.gov.au/frac (<https://www.fairwork.gov.au/frac>).

The new interactive tools make it easy for both employers and employees to find out about workplace rights and obligations such as pay, hours of work, allowances, leave and termination.

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.

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

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Media inquiries:

Matthew Raggatt, Senior Media Adviser

Mobile: 0466 470 507

matthew.raggatt@fwo.gov.au (mailto:matthew.raggatt@fwo.gov.au)

Page reference No: 8999

Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

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