

Restaurant operator facing Court for alleged compensation breach

29 March 2019

Note (4/6/2019): On 30 May 2019, the Federal Circuit Court imposed a penalty of \$5,000 (and interest on the penalty) against Indian Food Catering Pty Ltd. The Court also ordered the Company and Dharma Reddy Gummi to jointly pay all outstanding compensation (and interest) to the worker who was unfairly dismissed.

The operator of an Indian restaurant in Sydney is facing Court for allegedly breaching a Fair Work Commission order by failing to pay compensation to a visa holder it unfairly dismissed.

The Fair Work Ombudsman has commenced legal action against Dharma Reddy Gummi and his company, Indian Food Catering Pty Ltd, in the Federal Circuit Court.

Last year the Fair Work Commission found the company had unfairly dismissed a cook at its Amritsari Dhaba restaurant in Doonside, in western Sydney. The cook, who commenced employment with the company in 2016, was dismissed by email effective immediately in March last year.

The sacked worker was an Indian national who had been on a skilled 457 visa and was on a bridging visa at the time of his dismissal.

The Fair Work Commission ordered the company to pay \$18,000 minus tax in compensation to the former employee, through six instalments due on set dates each month between September 2018 and February this year.

The company has allegedly paid only \$3,750 in total.

Fair Work Ombudsman Sandra Parker said the legal action would reinforce the importance of the Commission's orders.

"It is fundamental for the integrity of the workplace relations system that orders are complied with, and we will take legal action to ensure employees receive compensation," Ms Parker said.

The Fair Work Ombudsman alleges the company and Mr Gummi have breached the Fair Work Act by failing to comply with the Fair Work Commission order and seek penalties against each.

The company faces penalties of up to \$63,000, and Mr Gummi of up to \$12,600.

The Fair Work Ombudsman is also seeking a court order for the company and Mr Gummi to pay the outstanding compensation amount owed to the employee, plus interest, and an order for legal costs.

Ms Parker said the Fast Food, Restaurants and Café sector was a priority for the agency, accounting for more completed disputes than any other sector in the last five financial years. In 2017-18, one-third of legal actions commenced by the Fair Work Ombudsman involved businesses in the sector.

"We expect employers operating a restaurant, café or fast food outlet to comply with workplace laws and orders, and will continue to take legal action where that does not occur," Ms Parker said.

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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