

Former Crust pizza franchisee penalised

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The Fair Work Ombudsman has secured a total of \$75,400 in penalties in court against a former Melbourne Crust Gourmet Pizza Bar franchisee and one of its directors after they underpaid seven employees and provided false records to the FWO.

Desire Food Pty Ltd, which formerly operated the Cheltenham Crust outlet, has been penalised \$63,500 and company director and part-owner Chern Ming “Rick” Lee, who managed the outlet, has been penalised a further \$11,900, in the Federal Circuit Court.

The penalties were imposed after Desire Food and Mr Lee admitted breaching workplace laws by paying seven employees unlawfully low rates of pay, leading to a total of \$35,725 in underpayments, and providing false time and wage records to Fair Work inspectors.

Six of the seven employees, who worked as delivery drivers and pizza makers, were visa holders from non-English speaking backgrounds. The other employee was aged 17 at the time.

Fair Work Ombudsman Sandra Parker said that if employers unlawfully underpay migrant workers, they risk serious consequences including court action and penalties.

“All employees have the right to be paid the lawful minimum pay rates that apply in Australia, regardless of their visa status. Taking enforcement action to protect vulnerable workers and improve compliance in the fast food industry are priorities for the Fair Work Ombudsman.”

“Any workers with concerns about their pay or entitlements should contact the Fair Work Ombudsman. We have an agreement with the Department of Home Affairs where workers can contact us for assistance without fear of their visa being cancelled,” Ms Parker said.

Inspectors investigated after receiving a request for assistance. They found an employee had been underpaid \$30,416 between 2013 and 2016 as a result of being paid rates that undercut a range of minimum entitlements under the Fast Food Industry Award 2010, including minimum ordinary hourly rates, casual loadings and penalty rates for night-time, weekend and public holiday work. A special clothing allowance was also underpaid.

The investigation found similar breaches for six other employees with underpayments ranging from \$77 and \$2481 during a sample period between May and July 2017. All underpayments have now been rectified.

Laws relating to false records, meal breaks, payment of a transport allowance, minimum shift periods, pay slips and frequency-of-pay were also breached.

Judge Alister McNab found that the matter involved vulnerable employees and there was a need to impose penalties to deter other employers from similar conduct.

“General deterrence is important as a means of communicating the need for all employers to comply with workplace laws,” Judge McNab said.

NOTE: Desire Food and Mr Lee no longer own the Crust Cheltenham store. The Fair Work Ombudsman makes no allegations against the current owner.

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