

Café-restaurant operator faces court

10 October 2019

The Fair Work Ombudsman has commenced legal action in the Federal Circuit Court against the former operators of the Fair Espresso Central Market café-restaurant in the Adelaide CBD.

Facing Court is the company that formerly owned and operated the business, B2D Pty Ltd, and the company's sole director, Ms Lakshmi Kumar.

The Fair Work Ombudsman alleges that B2D and Ms Kumar breached the Fair Work Act by failing to comply with a Compliance Notice requiring the company to back-pay \$16,004 to four underpaid casual workers.

Fair Work Inspectors investigated after receiving requests for assistance from the workers and formed a reasonable belief that they had been underpaid their minimum ordinary hourly rates, weekend and public holiday penalty rates, casual loadings and meal break entitlements under the Restaurant Industry Award 2010.

Inspectors then issued B2D with a Compliance Notice requiring the business to rectify the alleged underpayments.

The workers, including one aged just 18-19 at the time, were allegedly individually underpaid between \$1187 and \$5926 for various periods of work between December 2017 and November 2018.

Fair Work Ombudsman Sandra Parker says compliance notices are an important tool for inspectors to recover unpaid wages for workers.

"Under the Fair Work Act, Inspectors can issue a Compliance Notice if they have a reasonable belief that an employer has breached workplace laws. Employers must comply with Compliance Notices unless they decide to challenge a Notice in court," Ms Parker said.

"The Fair Work Ombudsman is cracking down on the alleged underpayment of vulnerable workers in the fast food, restaurant and café sector. We will continue to audit businesses suspected of underpaying workers, and utilise our full suite of enforcement tools to hold employers to account."

The Fair Work Ombudsman alleges B2D and Ms Kumar also breached workplace laws by failing to keep proper records, failing to issue pay slips and providing false or misleading records to a Fair Work Inspector.

The FWO is seeking penalties against B2D and Ms Kumar. The company faces maximum penalties per breach ranging from \$31,500 to \$63,000, while Ms Kumar faces maximum penalties per breach ranging from \$6,300 to \$12,600.

The FWO is also seeking a Court Order requiring the company to rectify the underpayments in full, plus interest. A directions hearing has been listed in the Federal Circuit Court in Adelaide for 20 November 2019.

Employers and employees seeking assistance can visit www.fairwork.gov.au (<http://www.fairwork.gov.au>) or call the Fair Work Infoline on 13 13 94. An interpreter service is available on 13 14 50.

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Fair Work Online: www.fairwork.gov.au

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