

Operators of Barry Cafe face court

26 September 2019

The Fair Work Ombudsman has commenced legal action against the company that operates 'Barry Café', in the Melbourne suburb of Northcote, and two of its directors, alleging they underpaid 73 workers more than \$180,000.

Facing the Federal Circuit Court are siblings Stavros and Anastasia Petroulias and a company they part-own and operate, Malevi Pty Ltd.

The FWO alleges that employees at Barry Café were paid flat rates of \$18 to \$23 an hour, resulting in underpayment of the ordinary hourly rates, casual loadings, overtime rates and penalty rates for weekend and public holiday work they were entitled to under the Restaurant Industry Award 2010.

The FWO also alleges that Malevi Pty Ltd, Mr Petroulias and Ms Petroulias unlawfully took adverse action against one employee by not allocating further shifts to him because he exercised a workplace right by asking about wages he was owed. This employee's pay rate was less than he was entitled to under the Award and he indicated he would initiate small claims proceedings to recover unpaid wages.

Record-keeping laws were allegedly also breached.

Fair Work Ombudsman Sandra Parker said inspectors discovered the alleged underpayments when they investigated reports of workers being underpaid at Barry Cafe.

"Enforcing compliance with workplace laws in the fast food, restaurant and cafe sector continues to be a priority for the Fair Work Ombudsman. Employers in this sector are on notice that they must pay all employees according to Australia's lawful minimum pay rates," Ms Parker said.

"We also treat very seriously allegations of employers taking any sort of action against an employee in response to an employee simply seeking to have their lawful workplace rights respected."

In total, it is alleged that 73 employees were underpaid \$180,660 over a 12-month period between April 2017 and April 2018, including a number of visa holders and young workers.

Alleged underpayments of individual workers range from \$31 to \$12,315.

The FWO is seeking court orders requiring Mr Petroulias, Ms Petroulias and Malevi Pty Ltd to back-pay the employees in full less any amounts that have already been paid.

Mr Petroulias and Ms Petroulias each face penalties of up to \$12,600 per contravention and Malevi Pty Ltd up to \$63,000 per contravention.

The FWO is also seeking court orders requiring Malevi Pty Ltd to commission an independent audit of its wage payment practices and provide the results to the FWO, display a workplace notice detailing workers' rights, and register with the My Account portal at www.fairwork.gov.au and complete the courses for employers. The FWO is also seeking a court order requiring Mr Petroulias and Ms Petroulias to obtain workplace training.

A directions hearing is listed in the Federal Circuit Court on 16 October 2019.

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