

Court penalises Darwin restaurant operators

30 April 2020

The operators of the Darwin restaurant, Bar.B.Q Tonight NT, have been penalised \$26,460 by the Federal Circuit Court for failing to comply with a Compliance Notice issued by the Fair Work Ombudsman.

FMS Holdings Pty Ltd, has been penalised \$22,050 and the company's sole director, Mr Rana Ali Hassan, has been penalised an additional \$4,410.

The Court found that FMS Holdings and Mr Hassan contravened the Fair Work Act by failing to comply with a Compliance Notice requiring the company to back-pay a cook a total of \$15,833.31.

In addition to the penalties, the Court has ordered FMS Holdings to fully rectify the underpayments detailed in the Compliance Notice, plus interest.

Fair Work Ombudsman Sandra Parker said the outcome reinforced the importance of Compliance Notices in helping the FWO recover wages for underpaid workers.

"Compliance Notices are an important tool we use to get unpaid wages back into workers' pockets in a timely manner. If employers do not comply with Compliance Notices, they can clearly face court-imposed fines, in addition to the initial wages back-payment bill."

"We encourage any worker with concerns about their pay and entitlements to contact us for free assistance," Ms Parker said.

Fair Work Inspectors conducted an investigation into FMS Holdings following a request for assistance from the cook, who was a migrant worker from Pakistan in Australia on a 457 visa.

The Compliance Notice issued to FMS Holdings by the FWO related to underpayments of the employee's minimum wage, late night, weekend and public holiday penalty rates, split shift allowances, annual leave on termination and minimum notice of termination or payment in lieu of notice under the Restaurant Industry Award 2010 and the Fair Work Act 2009.

After the FWO issued the Compliance Notice last year, FMS Holdings and Mr Hassan initially agreed to a repayment plan to rectify the underpayments. However just \$1,250 of the outstanding amount was repaid.

The FWO subsequently commenced legal action late last year (www.fairwork.gov.au/about-us/news-and-media-releases/2019-media-releases/december-2019/20191209-darwin-restaurant-operator-taken-to-court).

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 it to us anonymously \(www.fairwork.gov.au/workplace-problems/fixing-a-workplace-problem/anonymous-report/anonymous-tipoff\)](http://www.fairwork.gov.au/workplace-problems/fixing-a-workplace-problem/anonymous-report/anonymous-tipoff) – in your language.

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Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

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Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

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