

Newcastle restaurant owner faces court

7 February 2020

The Fair Work Ombudsman has commenced legal action in the Federal Circuit Court against the operator of a Thai restaurant in Newcastle.

Facing Court is Mr Supon Phiyasirikul, a sole trader who operates the Thai Square Warners Bay restaurant.

The Fair Work Ombudsman alleges Mr Phiyasirikul breached the Fair Work Act by failing to comply with a Compliance Notice requiring him to correctly calculate and back-pay alleged underpayments of his employees, some of whom were visa holders.

A Fair Work Inspector issued the Compliance Notice earlier this year in response to a request for assistance from a former employee.

The Compliance Notice was issued after a Fair Work Inspector conducted an investigation and formed a belief that Mr Phiyasirikul, between July 2018 and June this year, allegedly underpaid minimum wage rates for ordinary hours, casual loading, overtime, and weekend and public holiday penalty rates under the Restaurant Industry Award 2010.

Fair Work Ombudsman Sandra Parker says compliance notices are an important tool to recover unpaid wages, and they will be enforced where they are not followed.

“Under the Fair Work Act, inspectors can issue a compliance notice if they have a belief that an employer has breached certain workplace laws. Where employers do not comply with our notices, a court can order them to pay penalties in addition to back-paying any affected employees.”

“The Fair Work Ombudsman is cracking down on alleged underpayments in the fast food, restaurant and café sector, including of migrant workers, and will continue to use all its enforcement tools to ensure employers meet their lawful obligations.”

The FWO is seeking a penalty, with Mr Phiyasirikul facing a maximum penalty of \$6,300.

The FWO is also seeking a Court Order requiring Mr Phiyasirikul to comply with the Compliance Notice, which includes rectifying the underpayments in full, plus superannuation and interest.

The fast food, restaurant and café sector has accounted for more disputes than any other industry during the last six years. It made up 56 per cent of the FWO's new litigations last financial year.

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. Targeted resources are at www.fairwork.gov.au/frac (www.fairwork.gov.au/find-help-for/fast-food-restaurants-cafes)

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Fair Work Online: www.fairwork.gov.au

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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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