

Surfers Paradise restaurant faces court

9 January 2020

The Fair Work Ombudsman has commenced legal action in the Federal Circuit Court against the operators of a Surfers Paradise restaurant.

Facing Court is Inverted Mountain Pty Ltd, which operates the vegetarian restaurant trading as Govinda's Surfers Paradise, and company directors Zardi Manning and Christopher Kruize.

The Fair Work Ombudsman alleges the company breached the Fair Work Act by failing to comply with a Compliance Notice requiring it to calculate and back-pay alleged underpayments of restaurant employees. It is alleged Mr Manning was involved in the breach.

A Fair Work Inspector issued the Compliance Notice in May 2019 after a request for assistance from a former employee.

The Compliance Notice was issued after an inspector conducted an investigation and formed a belief that Inverted Mountain, between January and May 2019, underpaid minimum wage rates for ordinary hours, casual loading, and weekend and public holiday penalty rates under the Restaurant Industry Award 2010.

The Fair Work Ombudsman also alleges breaches of record-keeping and pay slip laws, including not issuing any pay slips to one employee.

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 form 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, and will continue to use all its enforcement tools to ensure employers meet their lawful obligations," Ms Parker said.

The FWO is seeking penalties against Inverted Mountain, Mr Manning and Mr Kruize. In relation to the alleged Compliance Notice breach, the company faces a maximum penalty of \$31,500 and Mr Manning up to \$6,300. In relation to the alleged record-keeping and pay slip breaches, the company faces a maximum penalty of \$63,000 per breach, and Mr Manning and Mr Kruize up to \$12,600 per breach.

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

A first court date has been listed in the Federal Circuit Court in Brisbane for 22 May 2020.

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/frac)

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