

## Restaurant penalised for pregnancy discrimination

13 January 2020

The Fair Work Ombudsman has secured \$44,800 in penalties against the company that operates Coco's Restaurant in South Perth and a company director for taking adverse action against a pregnant waitress by cancelling and reducing her shifts.

The Federal Circuit Court has penalised Jewel Bay 2015 Pty Ltd \$31,500 and company director Abdel Wahid Tajeddine has been penalised \$6,300 for the workplace law breaches.

In addition, the Court ordered the company and Mr Tajeddine to pay \$7,000 compensation to the waitress.

In proceedings before the Court, it was an agreed fact that the waitress started work at Coco's Restaurant on a casual basis in February 2016 and that she informed Mr Tajeddine, who was involved in the day-to-day management of the restaurant, that she was pregnant in April 2017.

The Respondents admitted that some of the waitress's shifts were reduced and cancelled between July and September 2017 for reasons that included her pregnancy.

Judge Douglas Humphreys noted that the waitress could be sent home early if there was no work for her to perform. It was admitted that on one occasion in July 2017, by which time the waitress was visibly pregnant, Mr Tajeddine directed a supervisor to send the waitress home first because "she looks disgusting".

It was admitted that on another occasion, Mr Tajeddine directed the supervisor to cancel the waitress's rostered shift for the evening, saying words to the effect of "she's holding another human inside of her", and "she can't move as fast as other staff".

The Court made declarations that Jewel Bay and Mr Tajeddine breached the Fair Work Act by taking adverse action against the waitress because of her pregnancy.

Fair Work Ombudsman Sandra Parker said inspectors investigated after the waitress lodged a request for assistance.

"Under the Fair Work Act, it is unlawful for employers to discriminate against employees on the grounds of pregnancy, race, colour, sex, sexual orientation, age, physical or mental disability, marital status, family or carer's responsibilities, religion, political opinion, nationality or social origin."

"Discrimination has no place in any Australian workplace and will not be tolerated by the Fair Work Ombudsman. Employers must ensure that they treat all employees fairly and lawfully. Any employee with concerns about workplace discrimination should contact us," Ms Parker said.

Judge Humphreys said "the adverse action flowed from explicit and very derogatory comments made by Mr Tajeddine", and that the comments about the employee's appearance "convey an entirely unacceptable view of pregnant women in modern Australia".

"I am of the view that the Court needs to send a clear message of general deterrence that employers who use casual employees in the manner that [the employee] was used, particularly in the hospitality industry, cannot discriminate against women based on pregnancy and the cost of doing so, will well outweigh any perceived financial benefit from doing so," His Honour said.

In addition to the penalties and compensation, the Court ordered Jewel Bay to commission workplace relations training for management personnel. This training has been completed.

Employers and employees seeking further information, advice or assistance can visit [www.fairwork.gov.au](http://www.fairwork.gov.au) or contact the Fair Work Infoline on 13 13 94. An interpreter service is available on 13 14 50.

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