

North Queensland restaurant in court

8 July 2020

The Fair Work Ombudsman has commenced legal action in the Federal Circuit Court against a North Queensland company operating Nick's Swiss Italian Restaurant in Yungaburra.

Facing Court is Engiadigna Pty Ltd and its sole director Niculin Crameri.

The Fair Work Ombudsman investigated after two casual employees, each visa holders who worked as a cook/chef and waiter/table runner lodged requests for assistance.

A Fair Work inspector issued a Compliance Notice after forming a belief the company had underpaid the two employees during periods between May 2018 and December 2019, including minimum wages, penalty rates and overtime owed under the Restaurant Industry Award 2010.

The notice required Engiadigna to calculate and back-pay the employee's entitlements.

The regulator alleges that the company, without reasonable excuse, failed to comply with the Compliance Notice as in response to the notice, Engiadigna made deductions from amounts owing to the employees that were not authorised under the Fair Work Act.

Fair Work Ombudsman Sandra Parker said that the regulator would continue to enforce workplace laws in a proportionate manner during the COVID-19 pandemic, and that includes taking businesses to court where lawful requests are not complied with.

"Under the Fair Work Act, Compliance Notices are important tools used by inspectors if they form a belief that an employer has breached workplace laws."

"Where employers do not comply with our requests, we will take appropriate action to protect employees. A court can order the business to pay penalties in addition to back-paying workers," Ms Parker said.

"Any employees with concerns about their pay or entitlements should contact the Fair Work Ombudsman for free assistance."

The FWO is seeking penalties against Engiadigna and Mr Crameri, and orders to comply with the Compliance Notice, which includes rectifying the underpayments in full, plus superannuation and interest.

Engiadigna is facing a maximum penalty of \$31,500, while Mr Crameri is facing a maximum penalty of \$6,300.

A directions hearing is listed in the Federal Circuit Court in Brisbane on 4 September 2020.

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.

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Contact us

Fair Work Online: www.fairwork.gov.au

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Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

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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

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