

Gold Coast restaurant operators in court

6 November 2020

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

Facing court is WS Natural Food Pty Ltd, which operates a Korean restaurant trading as Sogongdong Tofu House, and the company's sole director, Mr Seouk Woong Hong.

The regulator investigated after receiving requests for assistance from former employees of the company.

A Fair Work Inspector issued a Compliance Notice in May this year after forming a belief that the company had underpaid three food and beverage attendants their entitlements under the Restaurant Industry Award 2010.

The inspector believed the employees had variously been underpaid their minimum wage rates, casual loadings and penalty rates for weekend and public holiday for short periods of work performed between June and October 2019.

The three employees were Korean workers on working holiday visas, aged 21 to 22, at the time.

The FWO alleges that the company, without reasonable excuse, failed to comply with the Compliance Notice. The notice required the company to calculate and back-pay the workers' entitlements.

In line with the FWO's proportionate approach to regulation during the COVID-19 pandemic, the FWO made several attempts to secure voluntary compliance before commencing proceedings.

Fair Work Ombudsman Sandra Parker said that the regulator would continue to enforce workplace laws and take 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," Ms Parker said.

"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."

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

The Fair Work Ombudsman is seeking a penalty against WS Natural Food Pty Ltd and Mr Hong. The company is facing a maximum penalty of \$31,500 and Mr Hong faces a maximum penalty of \$6,300.

The regulator is also seeking an order for the company to comply with the Compliance Notice, which includes rectifying any underpayments in full, plus superannuation and interest. A directions hearing is listed in the Federal Circuit Court in Brisbane on 19 November 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

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