

Melbourne café operator penalised

16 November 2020

The Fair Work Ombudsman has secured \$27,783 in court penalties against the operator of two 'French Baguette Café' outlets in Melbourne.

The Federal Circuit Court has imposed a \$24,097.50 penalty against Saveway Store Pty Ltd, which operates the Footscray and Richmond cafes, and a \$3,685.50 penalty against its sole director, Mr Son Thanh Nguyen.

Saveway Store and Mr Nguyen admitted breaching the Fair Work Act by failing to comply with a Compliance Notice requiring the company to calculate and back-pay any outstanding amounts owing to a number of café employees.

The Court also ordered Saveway Store to comply with the Compliance Notice, which includes rectifying the underpayments in full, plus superannuation and interest.

The company also breached pay slip laws, and Mr Nguyen was involved in the Compliance Notice breach.

Fair Work Ombudsman Sandra Parker said businesses that failed to act on Compliance Notices face court-imposed penalties on top of their back-payments.

"We make every effort to secure voluntary compliance with Compliance Notices but when businesses do not do the right thing, we are prepared to take legal action to ensure workers receive what they are owed," Ms Parker said.

"Employers need to be aware that taking action to protect the rights of vulnerable workers continues to be a priority for the Fair Work Ombudsman. Any employees with concerns about their pay or entitlements should contact us for free advice and assistance."

Fair Work Inspectors began an investigation into the French Baguette outlets last year as part of broader auditing activities.

The Compliance Notice was issued in July 2019 after a Fair Work Inspector formed a belief that full-time and part-time café employees had been underpaid overtime rates and weekend and public holiday penalty rates under the Restaurant Industry Award.

Judge John O'Sullivan said the matter involved a failure to act on the warning that there can be serious results for an employer who breaches a Compliance Notice.

"This case illustrates once again that there are consequences for failing to comply with a compliance notice, because if the warning they contain had been heeded in the first place the recipient would have been able to escape any penalty or Court finding," he said.

Employers and employees can visit www.fairwork.gov.au or call the Fair Work Infoline on 13 13 94 for free advice and assistance. A free interpreter service is on 13 14 50.

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