

Tasmanian restaurant operator penalised

1 October 2020

The Fair Work Ombudsman has secured \$14,500 in penalties in court against the operators of the Jade Willow Chinese Restaurant located at Ulverstone in Tasmania.

The Federal Circuit Court has imposed a \$12,000 penalty against the company that operates the restaurant, Galb Pty Ltd, and a \$2,500 penalty against the company's sole director, Mr Chao Liang.

The penalties were imposed in response to the company and Mr Liang breaching the Fair Work Act by failing to comply with a Compliance Notice (CN) requiring the company to calculate and back-pay entitlements for five young employees.

Fair Work Ombudsman Sandra Parker said businesses that fail to act on Compliance Notices face court-imposed penalties in addition to having to back-pay any underpaid staff.

"We make every effort to secure voluntary compliance with Compliance Notices but where they are not followed, we are prepared to take legal action to ensure workers receive their lawful entitlements," Ms Parker said.

"Employers also need to be aware that improving compliance in the fast food, restaurant and café sector 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 commenced an investigation into the Jade Willow Chinese Restaurant in 2018 after receiving a request for assistance from an employee.

The Compliance Notice was issued after a Fair Work Inspector formed a belief that food and beverage attendants at the restaurant had been underpaid minimum wage rates, weekend and public holiday penalty rates, casual loadings, late night additional payments and minimum two-hour shift pay under the Restaurant Industry Award.

The five employees had been paid flat rates of between \$8 and \$14 an hour.

Judge Grant Riethmuller said the contraventions resulted in payment delays for young employees and that it was "only after proceedings were commenced to prosecute the respondents for failing to comply with the notices that the payments were made, some 18 months after the CN".

Judge Riethmuller noted that "a subsequent underpayment discovered in November 2019 suggests little has changed, despite the respondents saying that systems are now in place to ensure compliance".

Judge Riethmuller found that it was "most unfortunate" that court proceedings were needed and there was a need to deter others from similar conduct. "It is important that CNs are taken seriously by employers and not ignored," he said.

Employers and employees seeking assistance can visit www.fairwork.gov.au or call the Fair Work Infoline on 13 13 94. An interpreter service is available on 13 14 50.

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