

WA restaurant in court

27 October 2020

The Fair Work Ombudsman has commenced legal action in the Federal Circuit Court against the operators of a restaurant at Mandurah, south of Perth.

Facing court are Dingwall Hilder Nominees Pty Ltd, which operates a restaurant trading as Quarterdeck Dining, and a company director and manager Michelle Dawn Hilder.

The regulator investigated after receiving requests for assistance from employees who had worked at Quarterdeck Dining.

A Fair Work Inspector issued two Compliance Notices earlier this year – in January and June - after forming a belief that the company had underpaid employees their entitlements under the Restaurant Industry Award 2010.

The inspector believed that six employees had been underpaid their entitlements including minimum wage rates, casual loadings, overtime rates, weekend penalty rates, annual leave entitlements and public holiday pay for periods of work between June 2017 and December 2019.

The affected workers included three cooks and three food and beverage attendants.

The FWO alleges that the company, without reasonable excuse, failed to comply with the Compliance Notices. The notices 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 attempted 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."

"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 Fair Work Ombudsman is seeking penalties against Dingwall Hilder Nominees Pty Ltd and Ms Hilder. The regulator is also seeking orders for the company to comply with the Compliance Notices, which includes rectifying any underpayments in full, plus superannuation and interest.

Dingwall Hilder Nominees Pty Ltd is facing maximum penalties of up to \$33,300 per contravention, while Ms Hilder is facing maximum penalties of up to \$6,600 per contravention. A directions hearing is listed in the Federal Circuit Court in Perth on 3 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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