

Darwin fast food outlet fined \$22,200 for underpaying young worker

22 January 2010

The operator of a Darwin take-away food outlet has been fined \$22,200 for underpaying a young worker almost \$25,000.

Fortcrest Investments Pty Ltd, which owns and operates Lips Café at the Oasis Shopping Centre, Palmerston, received the fine in the Federal Magistrates Court in Darwin.

Federal Magistrate Janet Terry imposed the fine after Fortcrest Investments admitted breaching workplace laws by underpaying a casual food service employee a total of \$24,526 between 2003 and 2008 when she was aged between 20 and 25.

Fortcrest Investments underpaid the employee's minimum hourly rate and failed to pay her a district allowance she was entitled to.

The company also admitted breaching workplace laws by failing to issue the employee payslips and failing to keep proper superannuation records.

The Fair Work Ombudsman discovered the breaches when it investigated a complaint the employee lodged via the internet in March, 2008.

Fair Work inspectors negotiated for the company to back-pay the worker all money she was owed in September, 2008.

In her judgment, Federal Magistrate Terry criticised the director and manager of Fortcrest Investments, who were East Timorese refugees, for determining the wage rate they would pay the employee by talking to other shop owners.

Federal Magistrate Terry said it was "reckless in the extreme of the director and manager of the respondent, in circumstances where they had never run a business before and intended to set up business in a country with whose laws they were not familiar, to fail to make any inquiries with any relevant authorities about their obligations concerning paying employees and their record keeping obligations."

"Many immigrants to Australia set up small businesses here and it is important that a penalty be imposed significant to deter other people in the director and manager's circumstances from acting in the same reckless fashion by failing to make any inquiries about their obligations as employers," Federal Magistrate Terry said.

"It is important that it be reinforced to all small business operators that they have an obligation to meet minimum requirements concerning pay and record keeping and cannot simply determine for themselves the amount they will pay or the records they will keep."

Fair Work Ombudsman Executive Director Michael Campbell says the Court has sent a strong message to employers that ignorance of workplace laws is no excuse for underpaying staff and encouraged businesses unsure of their obligations to contact his Agency for advice and assistance.

"The Fair Work Ombudsman has a range of experts and other resources available to help employers quickly and easily determine things such as the correct Award, classification and pay rates that apply to their employees," he said.

"While it is ultimately the employer's responsibility to ensure they keep up to date with this information, we are here to help them do that."

Employers or employees seeking assistance should contact the Fair Work Infoline on 13 13 94 or visit www.fwo.gov.au. For translations call 13 14 50.

The Fair Work Ombudsman promotes harmonious, productive and co-operative workplaces. It also monitors compliance and investigates breaches of national workplace laws.

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Fair Work Online: www.fairwork.gov.au

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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

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

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