

Vic restaurant facing Court over alleged failure to rectify underpayments

1 August 2013

A Lorne restaurant's alleged failure to comply with a Fair Work Ombudsman demand to back-pay a foreign chef more than \$4,000 has landed them in court.

The Fair Work Ombudsman has launched legal action against Darna Pty Ltd, the operators of the regional Victorian restaurant, Saporitalia, at Lorne.

Also facing Court is Yoav Oren, who is a director of Darna and a part-owner of the restaurant.

It is alleged that a chef employed at Saporitalia was underpaid \$4,222 in minimum wages, penalty rates and other entitlements between September and November, 2012.

Fair Work Inspectors discovered the alleged underpayment when they investigated a complaint lodged by the employee, an Israeli who was in Australia on a bridging visa at the time.

It is alleged that in May this year, a Fair Work Inspector issued a Compliance Notice to Mr Oren that required Darna Pty Ltd to rectify the underpayments within 14 days.

It is alleged that Mr Oren was involved in the company failing to comply with the Compliance Notice and that no application for a review of the Compliance Notice was made.

Under the Fair Work Act, employers must comply with Compliance Notices issued by Fair Work Inspectors, unless they have a reasonable excuse, or make a court application to challenge the Notice.

Fair Work Ombudsman, Natalie James, said the decision to launch legal action was made because enforcing Compliance Notices was fundamental for maintaining the integrity of Australia's workplace laws.

Mr Oren was allegedly involved in Darna Pty Ltd committing one breach of workplace laws. Mr Oren faces a maximum penalty of \$5,100 and the company faces a maximum penalty of \$25,500.

The Fair Work Ombudsman is also seeking a Court Order for the company to back-pay the employee in full.

A directions hearing is listed in the Federal Circuit Court in Melbourne on August 5.

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