

## Melbourne business fined almost \$130,000 for underpaying “vulnerable” worker

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A Melbourne grocery importation business has been fined \$128,700 for the “negligent” underpayment of a “vulnerable” delivery truck driver.

Lay Brothers (Wholesale) Pty Ltd - a Dandenong-based company involved in importing and distributing Asian grocery products - has received the fine in the Federal Circuit Court in Melbourne, as the result of legal action by the Fair Work Ombudsman.

The Fair Work Ombudsman has also secured full back-pay for the affected worker, who was underpaid a total of \$124,816.

The worker - an immigrant from East Timor aged in his 40s who speaks English as a second language - lodged a complaint with the Fair Work Ombudsman after he was underpaid while employed as a delivery truck driver.

The significant underpayment was largely the result of Lay Brothers (Wholesale) Pty Ltd paying the worker flat hourly rates of \$10 to \$11.50 between 2007 and 2011 despite him often working more than 60 hours a week, including weekends.

The worker was entitled to at least \$14 to \$16 for normal work hours and more than \$20 an hour for overtime and weekends.

In imposing the penalty, Judge Frank Turner said withholding such a large amount of pay from a vulnerable employee was a serious offence.

“(The employee) was a cousin of the respondent’s Managing Director - he was entitled to trust him - that trust was breached to a very serious extent,” Judge Turner said.

“There is no proof that the underpayments were deliberate, but at best they must have resulted from a failure by the respondent to enquire about the correct entitlements, therefore they resulted from negligence.

“Ignorance of the law is no excuse. An employer must ascertain the correct entitlements and accord them.”

Fair Work Ombudsman Natalie James said the Court’s decision sends a message that underpayments of vulnerable employees will not be tolerated.

“We will not hesitate to take action to protect the workplace entitlements of vulnerable workers in the community,” Ms James said.

“Successful prosecutions such as this also benefit employers who are complying with workplace laws because it helps them to compete on a level playing field.”

Employers and employees seeking assistance should visit [www.fairwork.gov.au](http://www.fairwork.gov.au) or contact the Fair Work Infoline on 13 13 94. A free interpreter service is available by calling 13 14 50.

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