

Foreign chef in Tasmania allegedly underpaid almost \$90,000

16 June 2013

The Fair Work Ombudsman has launched legal action against the operators of a Tasmanian take-away restaurant, alleging a foreign chef who spoke limited English was underpaid almost \$90,000.

Facing Court is ECFF Pty Ltd, which trades as Dave's Noodles in Launceston and local couple, Priscilla Li Peng Lam and David Wing Leong Lam, who own and manage Dave's Noodles.

It is alleged that Mr and Mrs Lam, through their company ECFF Pty Ltd, sponsored a chef from China to come to Australia on a 457 work visa - and then underpaid him a total of \$88,857 for work he performed at Dave's Noodles between 2008 and 2011.

It is alleged the underpayment is largely the result of the chef, who spoke limited English, receiving weekly pay of \$804-to-\$913 based on a 38-hour week, despite regularly being required to work 60 hours a week.

The situation allegedly resulted in underpayment of the chef's minimum hourly rate and penalty rates for overtime, night, weekend and public holiday work.

ECFF Pty Ltd also allegedly created false time-and-wages records showing that the chef had worked 38 hours a week and directed the chef to sign the records every few months.

It is alleged that after the chef lodged an official complaint, ECFF Pty Ltd provided the false time-and-wages records to Fair Work Inspectors investigating the matter.

Acting Fair Work Ombudsman, Michael Campbell, said the significant amount involved for a vulnerable worker and the failure to rectify the alleged underpayment were key factors in the decision to commence legal action.

Mr and Mrs Lam were allegedly involved in ECFF Pty Ltd committing multiple breaches of workplace laws. Mr and Mrs Lam each face penalties of up to \$6,600 per breach and the company faces penalties of up to \$33,000 per breach.

The Fair Work Ombudsman is also seeking a Court Order for full back-payment to the chef, who is now an Australian citizen aged 43. A directions hearing is listed in the Federal Circuit Court in Hobart on July 16.

Employers and employees seeking assistance should visit 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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Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

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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