

Restaurant faces Court over underpayments

10 December 2014

A Bendigo restaurant faces court for allegedly underpaying nine casual and part-time employees more than \$10,000.

It is the second time in a year the Fair Work Ombudsman has initiated legal proceedings against the Victorian Goldfields Region restaurant.

Facing the Federal Circuit Court in February will be Sona Peaks Pty Ltd, trading as the Curry Garden Indian Restaurant. Also named is the company's sole director and part-owner David Peter Anderson.

The Fair Work Ombudsman alleges that nine casual and part-time employees were underpaid a total of \$10,815 between October, 2012 and September last year.

The workers include three teenagers and an Indian national visa-holder.

In August, 2013, the Fair Work Ombudsman announced it was taking legal action against Sona Peaks and Mr Anderson for allegedly failing to comply with a demand to back-pay another underpaid waitress \$5037 (see [Bendigo restaurant facing Court over alleged failure to rectify underpayments \(www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2013-media-releases/august-2013/20130807-sona-peaks-litigation\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2013-media-releases/august-2013/20130807-sona-peaks-litigation) media release).

While the employee has since been back-paid, the matter is still before Court.

In the latest case, the underpayments were allegedly the result of the employees - a cook and eight waiting staff - being paid flat rates as low as \$10.50 an hour.

It is alleged the lawful minimum hourly rates were \$13.56 to \$14.87 for the junior employees and \$15.96 to \$17.49 for the adult employees, with additional penalty rates payable for weekend, public holiday and night work.

Breaches of record-keeping obligations are also alleged.

Fair Work Ombudsman Natalie James says inspectors made significant efforts to engage with the restaurant operators to try to resolve the underpayments by agreement, but were unable to secure sufficient co-operation.

"We allege these business operators have shown no interest in taking corrective action, leaving us no option but to commence legal action," she said.

"The involvement of young workers and an overseas worker is an aspect of this case we treat very seriously because these workers can be vulnerable if they are not fully aware of their entitlements or are reluctant to complain."

The Fair Work Ombudsman is seeking a Court Order for Sona Peaks to back-pay the workers and the imposition of penalties. Mr Anderson faces maximum penalties of up to \$10,200 per breach and Sona Peaks up to \$51,000 per breach.

Employers and employees seeking assistance can visit www.fairwork.gov.au or contact the Fair Work Infoline on 13 13 94.

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Contact us

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