

Cairns tour operator faces court for alleged underpayment of backpackers

11 December 2014

A Cairns tour operator accused of underpaying five overseas backpackers tens of thousands of dollars allegedly told Fair Work inspectors investigating the matter that “you will not get a cent”.

Businessman Leigh Alan Jorgensen also claimed that he never employed the backpackers, according to the Fair Work Ombudsman.

The Fair Work Ombudsman today announced it had commenced legal action against Mr Jorgensen and his company, which trades as Trek North Tours.

It is alleged that the backpackers, aged between 23 and 32, were underpaid a total of almost \$30,000 when they worked for Trek North Tours between August last year and April this year.

The five were in Australia on 417 working holiday visas from Hong Kong, the Netherlands, Italy and Taiwan.

They worked as tour desk agents at three Trek North Tours centres in Cairns – two on The Esplanade and one on Lake Street – for periods of up to four months.

After the employees lodged complaints with the Fair Work Ombudsman earlier this year, inspectors allegedly found they had been paid flat hourly rates of between \$10 and \$16.37 an hour.

In some cases, they were allegedly not paid anything at all for some work performed.

Under the General Retail Industry Award, they should have been paid at least \$17.98 for normal hours and up to \$39.56 an hour for shifts that attracted penalty rates.

Mr Jorgensen also allegedly refused to return a \$500 bond to one worker after she resigned.

Further, the Fair Work Ombudsman claims Mr Jorgensen and his company failed to comply with three Compliance Notices requiring him to back-pay the workers and a Notice to Produce documents.

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

Mr Jorgensen allegedly refused to cooperate with the Fair Work Ombudsman’s investigation, telling inspectors “you will not get a cent” and claiming he never employed the allegedly underpaid workers.

Fair Work Ombudsman Natalie James says inspectors made extensive efforts to try to resolve the matter without going to court, but were unable to secure sufficient co-operation.

“We were left with no option but to commence this legal action to recover the money allegedly owing to these workers,” Ms James said.

The Fair Work Ombudsman is seeking a Court Order for the workers to be back-paid as well as penalties.

Mr Jorgensen faces maximum penalties of up to \$5100 per contravention and his company faces maximum penalties of up to \$25,500 per contravention.

A directions hearing is listed for December 15 in the Federal Circuit Court in Brisbane.

Ms James says the Fair Work Ombudsman places a high priority on protecting the workplace rights of overseas workers, who can be vulnerable if they are not fully aware of their rights or are reluctant to complain.

In August, the Fair Work Ombudsman announced it would conduct a national review of the wages and conditions of overseas workers in Australia on the 417 working holiday visa.

The Director of the Fair Work Ombudsman’s Overseas Workers’ Team recently travelled to Cairns, Darwin and Alice Springs to meet with key stakeholders to gain intelligence as part of the review.

Employers and employees seeking assistance can visit www.fairwork.gov.au or contact the Fair Work Infoline on 13 13 94. Overseas workers can call 13 14 50 if they need interpreter services.

Information to assist people from culturally and linguistically diverse backgrounds has been translated into 27 languages.

The Fair Work Ombudsman has fact sheets tailored to overseas workers and international students on its website.

The Agency has also produced videos in 14 languages and posted them on YouTube to assist overseas workers understand their workplace rights in Australia.

Follow Fair Work Ombudsman Natalie James on Twitter [@NatJamesFWO](https://twitter.com/NatJamesFWO) (<http://twitter.com/NatJamesFWO>), the Fair Work Ombudsman [@fairwork_gov_au](https://twitter.com/fairwork_gov_au) (http://twitter.com/fairwork_gov_au) or find us on Facebook www.facebook.com/fairwork.gov.au (<http://www.facebook.com/fairwork.gov.au>).

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Fair Work Online: www.fairwork.gov.au

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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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