

Café penalised over unlawful wage deductions

A café in Perth has been required to pay thousands of dollars in compensation and penalties after the Fair Work Ombudsman found it was illegally deducting money from the wages of its employees.

On one occasion, a female cook had \$112 taken from her pay packet after her employer decided the crackling on a pork belly dish was “not crispy enough”.

The amount reflected the total bill from diners at the table which ordered the meal.

After responding to complaints from four staff, Fair Work inspectors also discovered the Subiaco business had regularly docked the wages of its employees.

Other unlawful deductions included:

- \$30 if tomato was placed in the wrong layer of a club sandwich,
- \$18.90 if a hair was found in a breakfast dish,
- \$12 for overcooking a waffle,
- \$12 for burning an omelette,
- \$12 for serving cold pizza, and
- \$10 for failure to prepare parsley for the following day.

Fair Work Ombudsman Natalie James says the business had also been unlawfully deducting \$100 a time from staff pay packets when employees were more than five minutes’ late for their rostered shifts.

“Further, this employer was asking its staff to pay up to \$1200 each out of their own pockets for in-house cooking demonstrations by the café’s head chef,” she said.

The affected employees – from India and Nepal on Regional Sponsored Migration Visas at the time – no longer work at the premises.

Ms James says the employees have received compensation of \$5000 each from their former employer following conciliation before the Fair Work Commission.

The Fair Work Ombudsman has also issued the business with Infringement Notices (on-the-spot fines) totalling \$7650 and a Letter of Caution placing it on notice that further contraventions of workplace laws could result in enforcement action.

The unlawful deductions occurred between June, 2012 and May last year.

Fair Work inspectors also found the café was failing to issue workers with pay-slips and was not keeping accurate time-and-wages records for its employees.

Ms James says the café will be monitored on an ongoing basis to ensure it follows through with undertakings given by the operators to comply with workplace laws in future.

“Deducting money from employee wages as a punishment, or as some sort of performance management tool, is completely unlawful,” she said.

“And it is clearly not a constructive way of encouraging staff to improve their performance if there are performance issues that need addressing.

“Research shows that employees are most productive and motivated when they are part of a workplace culture in which their contribution is valued and there are strong, positive leaders who encourage them to perform at their best.”

Ms James says the Perth example should serve to remind other employers of their obligations under workplace laws and the Fair Work Ombudsman can help.

“As a rule of thumb, deductions from wages are generally unlawful if they are not authorised by the employees in accordance with workplace law and are not principally for the benefit of the employees,” she said.

“Clearly these deductions only benefited the employer, which is why we have taken this matter seriously and sought a commitment

from the business this behaviour will not be repeated.”

Ms James says the Fair Work Ombudsman also views very seriously attempts by employers to exploit the vulnerability of overseas workers, who often are unaware of their workplace rights.

She encouraged employers who had any uncertainty about whether their workplace practices were appropriate or not to visit the Fair Work Ombudsman website at www.fairwork.gov.au.

Among the free resources are a series of Best Practice Guides on topics including effective dispute resolution and managing under-performance, which offer extensive advice on dealing with and managing issues at work.

Other tools include PayCheck Plus and an Award Finder to assist employers and employees to determine the correct award and minimum wages for their industry.

An online leave calculator and a hiring guide for small business help to simplify the process of hiring new staff.

Employers and employees seeking information and advice can visit the website or call the Fair Work Infoline on 13 13 94.

Small business employers calling the Fair Work Infoline can opt to be put through to the Small Business Helpline to receive priority service.

A free interpreter service for those from non-English speaking backgrounds is available by calling 13 14 50 and information about workplace laws is translated into 27 different languages at www.fairwork.gov.au/languages (www.fairwork.gov.au/language-help/default) .

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Fair Work Online: www.fairwork.gov.au

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Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

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