

Business couple fined over teen worker's wages; lack of meal, rest and toilet breaks

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Business operators who underpaid a teenage sales assistant and failed to provide her with sufficient meal, rest and toilet breaks have been fined tens of thousands of dollars following legal action by the Fair Work Ombudsman.

The employee was short-changed more than \$56,000, leaving her unable to support herself financially and forced to rely on others to make ends meet.

The Federal Circuit Court in Melbourne has penalised Greenvale couple Fardin and Beverly Soleimani almost \$40,000 over the treatment of the junior employee.

The couple operate a number of building and construction clothing retail outlets under the name Bad Workwear.

The employee was underpaid \$56,850 between May, 2010 and November, 2012. She worked mainly at the Northland Shopping Centre outlet at Preston.

She was aged 18 to 20 at the time and worked as a junior sales person for several months before being promoted to store manager.

The underpayments were the result of the employee being paid flat hourly rates ranging from \$10 to \$16 for all hours worked - despite regularly working more than 50 hours a week, including 12-hour shifts.

The payments were below the minimum hourly rate and led to underpayment of penalty rates for weekend, evening, public holiday and overtime work.

The employee's laundry allowance, annual leave entitlements and superannuation entitlements were also underpaid. Record-keeping and pay-slip obligations were also contravened.

Judge Suzanne Jones found that the employee was underpaid more than 40 per cent of her total entitlements.

She referred to the employee's evidence that a lack of meal breaks made it difficult for her to eat or rest properly, or indeed visit the toilet.

"She says that the respondents' conduct contributed to financial difficulties for her, undermining her ability to support herself and forcing her to rely on others to make ends meet," Judge Jones said.

The Court found that penalties should be imposed at a meaningful level to deter employers in the retail industry from committing similar contraventions and "leave them in no doubt as to the consequences should this occur".

Judge Jones was particularly critical of Mr and Mrs Soleimanis' failure to keep proper records and issue pay slips, saying it was "demonstrative of a serious disregard for their obligations".

The Fair Work Ombudsman commenced an investigation into the matter after receiving a complaint from the employee.

The employee was back-paid her outstanding entitlements only after the Fair Work Ombudsman commenced its legal action.

Fair Work Ombudsman Natalie James says the Court's decision sends a clear message to employers that exploitation of young, vulnerable employees will not be tolerated.

"Successful litigations such as this also benefit employers who are complying with workplace laws, because it helps them to compete on a level playing field," she said.

Ms James says the Fair Work Ombudsman can assist employers with accurate, reliable information and encouraged businesses to access the Agency's free tools and resources.

Online tools available at www.fairwork.gov.au include PayCheck Plus to determine the correct award and minimum wages for employees, templates for pay slips and time-and-wages records and a range of Best Practice Guides.

The website has attracted more than 2.2 million visitors since it was revamped in June and the Online Learning Centre on the website has now attracted more than 18,000 users, mostly small business operators.

Employers and employees seeking advice or assistance should visit the website 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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