

Meat workers to get \$43,000 back-pay after investigation into stand-downs

17 September 2014

Six workers at a meat processing plant at Casino, in regional NSW, have been reimbursed almost \$43,000 after they were wrongly stood down for two months on annual leave and leave without pay.

An investigation by the Fair Work Ombudsman found the conduct of the employer, Seine Australia Pty Ltd, contravened the stand-down provisions of the Fair Work Act 2009.

Seine's factory at Casino processes left-over meat and offal products from abattoirs into powder and liquid products that are exported as seasoning and stock.

On June 4 last year, employees were called to a meeting and told that because the factory was over-stocked, it would be closing temporarily from June 5 until August 5.

Workers were told that they would be placed on stand down and paid annual leave or long service leave – or leave without pay.

A number of the affected employees later contacted the Fair Work Ombudsman.

Fair Work inspectors firstly determined that some employees, who had been getting paid as little as \$16 an hour for all hours worked, were receiving less than their minimum lawful entitlements.

Under the Meat Industry Award 2010, the minimum rate of pay for a level 4 meat industry worker was \$16.70 an hour from July, 2012 and \$17.37 from July, 2013.

Secondly, inspectors found that employees working the night shift were only getting a 15 per cent allowance, when it should have been 21 per cent from July, 2012 and 23 per cent from July, 2013.

Finally, the Fair Work Ombudsman determined that the employees were entitled to be paid wages they would otherwise have received for ordinary hours worked had they not been stood down for two months.

They employees should also have been credited with annual leave entitlements during the stand-down period.

Contraventions in relation to employment records were also identified. Employees were required to "clock" on and off at the start and finish of their shift, but the company did not retain individual employee records, as required.

Seine Australia first came to the attention of the Fair Work Ombudsman in 2009 when it found the company had underpaid 35 employees more than \$116,000.

Those outstanding entitlements were rectified by agreement and no further enforcement action was initiated against the company.

Seine Australia has again co-operated with the Fair Work Ombudsman in relation to the latest breaches, and agreed to sign an Enforceable Undertaking.

The Enforceable Undertaking required the company to reimburse all outstanding entitlements and issue a written apology to the affected employees expressing its "sincere regret" for its conduct.

The company also committed to a number of measures to ensure future compliance with Commonwealth workplace laws.

These include undertaking workplace relations training on employee entitlements under the Fair Work Act and to engaging independent, external consultants to review and report on its compliance each year for the next three years.

Fair Work Ombudsman Natalie James says the matter should serve as a timely reminder to all employers of the importance of understanding stand-down provisions in circumstances where the business needs to close temporarily.

Enforceable Undertakings were introduced by legislation in 2009 and the Fair Work Ombudsman has been using them to achieve strong outcomes against companies that breach workplace laws without civil court proceedings.

"We use Enforceable Undertakings where we have formed a view that a breach of the law has occurred, but where the employer has acknowledged this and accepted responsibility and agreed to co-operate with us and fix the problem," Ms James said.

“Many of the initiatives included in EUs help to build a greater understanding of workplace responsibilities, motivate the company to do the right thing and help them avoid the same mistakes again.

“It also means we can resolve matters more speedily than if we proceed down a path towards litigation, often achieving outcomes, such as training sessions for senior managers, which are not possible through the Courts.”

Copies of all Enforceable Undertakings are available on the Fair Work Ombudsman website at www.fairwork.gov.au.

Employers and employees seeking assistance should visit the website or call the Fair Work Infoline on 13 13 94. An interpreter service is available on 13 14 50.

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