

Overseas students, backpacker short-changed

11 August 2015

International students and an overseas backpacker on a 417 working holiday visa were paid as little as \$15 an hour to work at a restaurant in Perth, the Fair Work Ombudsman has found.

The three females, from Malaysia and Taiwan, worked as kitchen hands and waiting staff at the Malaysian Dining Delights restaurant on Manning Road, at Bentley.

They are among five employees, aged between 22 and 41, who were short-changed almost \$4200 between July last year and January this year.

They were being underpaid their minimum hourly rate, overtime, weekend, evening, and public holiday rates and split shift allowances.

Individual underpayments ranged from \$233 to \$2175.

Restaurant director Soon Huat Koh told Fair Work inspectors he was unaware of Australia's minimum pay rates or the Restaurant Industry Award 2010.

Mr Koh was also failing to issue pay slips, for which he received an \$850 on-the-spot fine.

Four of the five underpaid employees have now been reimbursed all outstanding entitlements.

The 417 working holiday visa-holder has returned home and cannot be located. Her wages will be held in trust until she can be found.

Fair Work Ombudsman Natalie James says that while the Malaysian Dining Delights business has no previous record of non-compliance with workplace laws, it is important that the Agency takes steps to ensure behavioural change.

It has requested the business and Mr Koh sign an Enforceable Undertaking (EU) requiring certain actions to ensure future compliance with their workplace obligations.

These include engaging an external accounting professional to undertake an audit of wage practices and reporting back to the Fair Work Ombudsman on systems and processes implemented to ensure compliance.

Mr Koh has also agreed to register with the Online tool My Account and complete all education courses designed for employers in the online learning centre at www.fairwork.gov.au.

Further, the company will now issue pay slips to employees within one working day of being paid and display a workplace notice detailing the company's breaches.

The Fair Work Ombudsman uses Enforceable Undertakings where it has 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 and fix the problem.

"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," Ms James said.

Employers and employees seeking further information or advice are encouraged to visit www.fairwork.gov.au or call the Fair Work Infoline on 13 13 94 for free advice. A free interpreter service is also available on 13 14 50.

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- [Malaysian Dining Delights Enforceable Undertaking \(DOCX 95.3KB\) \(www.fairwork.gov.au/ArticleDocuments/837/malaysian-dining-delight-enforceable-undertaking.docx.aspx\)](http://www.fairwork.gov.au/ArticleDocuments/837/malaysian-dining-delight-enforceable-undertaking.docx.aspx) (PDF 561.9KB) (www.fairwork.gov.au/ArticleDocuments/837/malaysian-dining-delights-enforceable-undertaking.pdf.aspx)

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