

Business unaware of minimum pay rates short-changed Korean backpackers \$16k

2 December 2015

The operator of a cleaning business at Cairns in Far North Queensland who underpaid two overseas backpackers more than \$16,000 says he was unaware of Australia's minimum wage rates.

The Korean backpackers, 23 and 26, worked for as little as \$14 an hour at sites across Cairns, including a car dealership, hotel, club, fencing contractor and local school.

Under the Cleaning Services Award, they should have received at least \$22.51 an hour for standard hours and up to \$49.53 on public holidays.

One cleaner was underpaid \$12,114 between August 17 and December 2 last year and the other \$4102 between September 8 and November 15.

The two were short-changed their casual loadings, minimum hourly rates, shift loadings and allowances, as well as weekend and public holiday penalty rates.

Korean migrant Jae Gi Jo, who set up his cleaning business JHH International Pty Ltd after moving to Australia three years ago, told the Fair Work Ombudsman he was unaware of modern awards or minimum wage rates.

Through an interpreter, Mr Jo revealed that he had set his pay rates after talking to other Korean businesses.

He recruited the backpackers – who were in Australia on the 417 working holiday visa - through a Korean community website.

The pair contacted the Fair Work Ombudsman for help after realising they were being underpaid and were not receiving pay-slips.

At the time of the underpayments, JHH International was sub-contracted by TJS Services, a large cleaning contracting company operating across Australia to provide cleaning services at sites around Cairns.

Fair Work Ombudsman Natalie James says there is no evidence to suggest that TJS Services was aware of the contraventions.

However, she reminded principal contractors of the need to ensure that sub-contractors were compliant.

Ms James said JHH and Mr Jo had co-operated with the Fair Work Ombudsman and reimbursed the backpackers all their outstanding entitlements.

However, they were asked to enter an Enforceable Undertaking (EU) to ensure behavioural change and future compliance with workplace laws.

The EU requires that they:

- Engage an external accounting professional to audit workplace practices for the 2013 and 2014 financial years and the 2015, 2016 and 2017 calendar years,
- Place a public notice in The Cairns Weekend Post outlining the contraventions.
- Register with the Fair Work Ombudsman's online tool My Account,
- Implement systems and processes to ensure future compliance with workplace laws
- Make a donation of \$2000 to the Cleaning Accountability Framework to promote compliance with workplace laws, and
- Implement a training program for the director and managers to educate them about the rights and responsibilities of employers.

Over the past 12 months, the Fair Work Ombudsman has been working closely with key stakeholders in the cleaning industry to ensure compliance and best practice after finding the industry is characterised by layers of subcontracting, tight margins and a competitive tendering process.

"Cleaning contractors will continue to face ongoing spot checks by the Fair Work Ombudsman as we endeavour to detect and deter deliberate non-compliance with federal workplace law," Ms James said.

In 2010, a national cleaning campaign undertaken by the Agency recouped \$500,000 for 900 cleaners throughout Australia who were

found to have been underpaid.

The results of a follow-up campaign released in March this year revealed another 1200 cleaners were found to have been short-changed almost \$763,000.

Ms James said at the time the findings indicated a need for many cleaning contractors to pay greater attention to wage rates.

Latest data indicates there are almost 25,000 businesses operating in the cleaning services industry in Australia employing almost 100,000 workers.

Increasingly, the Fair Work Ombudsman is finding employers from non-English speaking backgrounds who have little or no understanding of their workplace obligations or the seriousness of their non-compliant behaviour.

"Anyone establishing operating a business, including migrants, need to ensure they take the time to understand our workplace laws applicable to their business," Ms James said.

"Migrant employers simply cannot undercut the minimum lawful entitlements of their employees based on what they think the job may be worth, what the employee is happy to accept, what other businesses are paying, or what the job may pay in their country of origin."

Ms James encouraged employers who had any uncertainty about whether their workplace practices were appropriate to visit www.fairwork.gov.au or call the Small Business Helpline for advice on 13 13 94. An interpreter service is available by calling 13 14 50, and information on the website is translated into 27 languages.

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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Download:

- [JHH International Pty Ltd Enforceable Undertaking \(DOCX 143.8KB\)](http://www.fairwork.gov.au/ArticleDocuments/884/enforceable-undertaking-jhh-international-pty-ltd.docx.aspx) (www.fairwork.gov.au/ArticleDocuments/884/enforceable-undertaking-jhh-international-pty-ltd.docx.aspx) (PDF 445.7KB) (www.fairwork.gov.au/ArticleDocuments/884/enforceable-undertaking-jhh-international-pty-ltd.pdf.aspx)

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Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

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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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