

## Service station operators fined for underpaying overseas workers \$111,000

9 December 2015

The operators of a Melbourne service station have been fined more than \$92,000 for underpaying two Indian workers as little as \$10 an hour.

The console operators at the BP service station on Clyde Road at Berwick were underpaid more than \$111,800 between 2008 and 2012.

Following legal action by the Fair Work Ombudsman, service station operator Liquid Fuel Pty Ltd has been fined \$79,537 by the Federal Circuit Court.

Husband-and-wife managers Xin Zhang and Linda Qu have also each been fined \$4504 and a penalty of \$3861 imposed against company director Nian Li, who is Ms Qu's father.

The workers lodged requests for assistance with the Fair Work Ombudsman after repeated inquiries to their employer about their pay rates were stonewalled.

After Fair Work inspectors investigated, Liquid Fuel rectified the underpayments, back-paying the workers \$58,584 and \$53,290 respectively.

However, Fair Work Ombudsman Natalie James says a decision was made to commence legal action because of the blatant nature of the underpayments and the involvement of vulnerable overseas workers.

The underpaid workers were both aged 28 and were in Australia on a 496 skilled designated area sponsored (provisional) visa and a 485 temporary graduate visa when they started working for Liquid Fuel.

Both are now Australian citizens.

They were paid flat rates ranging from \$10 to \$17 an hour, resulting in underpayment of their minimum hourly rates, casual loadings and penalty rates for overtime, weekend and public holiday work.

The employees were entitled to receive up to \$27 an hour for some work they performed.

One of the workers, who financially supported his wife daughter, told the Court the underpayments made it "very hard to survive" and at times he had to "borrow money just to pay rent at the end of the month".

Record-keeping and pay-slip laws were also breached.

Judge John O'Sullivan found the case was a "very serious matter" and that there was a need for penalties to deter the respondents and other employers from similar conduct in future.

"The conduct cannot be regarded as isolated and the period of time over which it occurred is also serious," Judge O'Sullivan said.

"The respondents' actions were, at the very least, reckless and show a disregard for their obligations."

Judge O'Sullivan also found there was "an absence of genuine contrition or remorse on the part of all of the respondents and only platitudes offered once they had been found out".

Ms James says the penalties send a clear message that exploitation of minimum wage employees - particularly those from overseas - is serious conduct and that significant consequences apply.

"There are a minority of rogue employers that need to get the message that exploitation of these workers is unlawful and unacceptable conduct," she said.

Ms James said it was also of concern that separate to the legal action, Liquid Fuel had reimbursed \$113,000 to six other employees who had been underpaid between 2007 and 2013.

Formal allegations of non-compliance to the Fair Work Ombudsman from overseas workers have increased steadily in recent years to more than 2100 last financial year.

Allegations received from overseas workers were highest in Queensland (28 per cent); NSW (25 per cent) and Victoria (22 per cent).

A total of \$1.6 million was recovered for visa-holders in 2014-15, up from \$1.1 million the previous financial year.

Employers and employees seeking assistance can visit [www.fairwork.gov.au](http://www.fairwork.gov.au) or contact the Fair Work Infoline on 13 13 94.

Information to assist people from culturally and linguistically diverse backgrounds has been translated into 27 languages.

Overseas workers can call 13 14 50 if they need interpreter services.

The Fair Work Ombudsman has fact sheets tailored to overseas workers and international students on its website.

The Agency has also produced videos in 14 languages and posted them on YouTube to assist overseas workers understand their workplace rights in Australia.

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](http://twitter.com/fairwork_gov_au)) or find us on Facebook [www.facebook.com/fairwork.gov.au](http://www.facebook.com/fairwork.gov.au) (<http://www.facebook.com/fairwork.gov.au>).

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## Contact us

Fair Work Online: [www.fairwork.gov.au](http://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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