

Court action after alleged underpayment of overseas worker at 7-Eleven in Brisbane

9 February 2015

The operator of a 7-Eleven retail store in Brisbane will face court for allegedly underpaying an overseas worker more than \$21,000 and refusing to co-operate with Fair Work inspectors.

The Fair Work Ombudsman has commenced legal action against Mubin Ul Haider, who owned and operated the 7-Eleven outlet at 243 Edwards Street in Brisbane until it closed last year.

Also facing court is Mr Haider's company, Haider Enterprises Pty Ltd.

The company allegedly underpaid an employee \$21,298 - including minimum wages, casual loadings and penalty rates – over a period of just 13 months between January, 2013 and February, 2014.

The employee, from Nepal and aged in his late 20s, was a visa holder when he started working for Mr Haider. He is now a permanent resident of Australia.

Fair Work inspectors investigated after the employee lodged a complaint.

The Fair Work Ombudsman issued two Notices to Produce (NTP) employment documents in May and June last year, but Haider Enterprises allegedly did not comply with them.

There was allegedly also no response to a follow-up letter in August.

Mr Haider and his company allegedly also failed to respond to a Compliance Notice (CN) issued in September and requiring the underpayment to be rectified within 17 days.

Under the Fair Work Act, business operators must comply with Notices to Produce and Compliance Notices issued by Fair Work inspectors - or make a court application for a review if they are seeking to challenge a Compliance Notice.

"Our inspectors made extensive efforts to engage with this business operator to try to resolve the matter voluntarily, but were not able to secure sufficient co-operation," Fair Work Ombudsman Natalie James says.

Mr Haider faces maximum penalties between \$5100 and \$10,200 per breach and his company \$25,500 to \$51,000 per breach.

The Fair Work Ombudsman is also seeking Court Orders for the company to back-pay the employee in full.

A directions hearing is listed in the Federal Circuit Court in Brisbane today.

Ms James says Fair Work inspectors identify underpayments at thousands of businesses nationally each year and resolve the vast majority by working co-operatively with employers, guiding them through the back-payment process and assisting them to put systems in place to ensure they pay their staff correctly in future.

However, if employers refuse to co-operate, Fair Work inspectors will consider compliance action, including issuing Notices to Produce and Compliance Notices, which lawfully require employers to take prompt action.

However, the Fair Work Ombudsman is willing to initiate legal proceedings where Notices are subsequently ignored and the Agency believes it is in the public interest to do so.

"Enforcing Compliance Notices and Notices to Produce is fundamental for maintaining the integrity of Australia's workplace laws," Ms James said.

"We will not tolerate these Notices being deliberately ignored."

Employers and employees seeking assistance can visit www.fairwork.gov.au or contact the Fair Work Infoline on 13 13 94. A free interpreter service is available by calling 13 14 50.

The website includes resources and guidelines that franchisors you can use to help their franchisees understand and meet their obligations, as well as information about the Fair Work Ombudsman's National Franchise Program, a free service that helps franchisors promote and support franchisee compliance.

Other helpful online tools include PayCheck Plus to assist business owners and employees determine the correct award and minimum wages for their industry, templates for pay slips and time-and-wages records and a range of fact sheets on workplace entitlements.

The 'My Account' tool allows users to save tailored information such as pay rates and conditions of employment specific to their circumstances.

Information on the website to assist people from culturally and linguistically diverse backgrounds has been translated into 27 languages and the website contains fact sheets tailored to overseas workers and international students.

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

Ms James says the Fair Work Ombudsman supports compliant, productive and inclusive Australian workplaces by providing practical advice that is easy to access, understand and apply.

“Equipping people with the information they need encourages and empowers employees and employers to resolve issues in their workplace and build a culture of compliance, ensuring a level playing field for all.”

Follow Fair Work Ombudsman Natalie James on Twitter [@NatJamesFWO](https://twitter.com/NatJamesFWO) , the Fair Work Ombudsman [@fairwork_gov_au](https://twitter.com/fairwork_gov_au) or find us on Facebook www.facebook.com/fairwork.gov.au .

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Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

Need language help?

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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