

\$20,000 back-pay for Indian restaurant employees

15 January 2015

The former operator of an Indian restaurant in North-East Victoria has agreed to back-pay two cooks more than \$20,000, following an investigation by the Fair Work Ombudsman.

The cooks were employed at the Hot Million Indian Restaurant in Mount Beauty, when it was owned and operated by Victorian man Hargulab Singh through his company Gurukirpa Ji Pty Ltd.

Both employees were males from India, including a 23-year-old on a 457 visa and a 36-year-old immigrant who is a permanent resident.

The underpayments occurred because the employees received sporadic, irregular payments that were the equivalent of average take-home-pay of \$11.42 and \$9.84 an hour, respectively.

Under the Restaurant Industry Award 2010, the workers were entitled to at least \$17.49 for normal hours and up to \$34.99 an hour for shifts that attracted penalty rates, such as weekend, public holiday and overtime work.

The company also underpaid the employees' annual leave entitlements, made unauthorised deductions from their pay, breached record-keeping laws and failed to issue pay slips.

The cooks were underpaid a total of \$13,081 and \$7521 respectively between November, 2013 and March, 2014.

Both employees said they resigned because the underpayments left them unable to support themselves financially.

The Fair Work Ombudsman investigated after the workers complained about their treatment.

During the course of the investigation Mr Singh co-operated fully with the Fair Work Ombudsman, agreeing to sign an Enforceable Undertaking (EU).

Under the terms of the EU, Mr Singh has agreed to a payment plan that will see his company back-pay all outstanding wages and entitlements to the employees by May, 2015.

The EU also requires Mr Singh's company to:

- implement workplace relations training,
- engage external specialists to audit his compliance with workplace laws,
- register an account with the Fair Work Ombudsman's My Account self-help tool at www.fairwork.gov.au, and
- Display workplace notices detailing its breaches at the two businesses it currently operates in North-East Victoria: the Hot Million Indian restaurant at Benalla and Yack's cafe at Yackandandah.

Fair Work Ombudsman Natalie James says the matter should serve as a timely reminder to business operators of the need to understand and comply with workplace laws applicable to their workplace.

"We know workplace laws can be complicated for the uninitiated, and for those who are not industrial experts, but we ask small business to use the tools and resources that we provide for them and inform themselves," she said.

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

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."

Underpinning the Fair Work Ombudsman's website tools and resources is its award-winning Small Business Helpline, where employers can get advice they can rely on with confidence.

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 the need for 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.”

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

NOTE: The current operators of the Hot Million Indian Restaurant at Mount Beauty have no involvement in any of the underpayment matters above.

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>).

Media inquiries:

Nicci de Ryk, Senior Media Adviser

Mobile: 0466 522 004

nicci.deryk@fwo.gov.au (<mailto:nicci.deryk@fwo.gov.au>)

Download:

- [Gurukirpa Ji Pty Ltd Enforceable Undertaking \(DOCX 113KB\) \(www.fairwork.gov.au/ArticleDocuments/837/gurukirpa-ji-pty-ltd-enforceable-undertaking.docx.aspx\)](http://www.fairwork.gov.au/ArticleDocuments/837/gurukirpa-ji-pty-ltd-enforceable-undertaking.docx.aspx) (PDF 1.4MB) (www.fairwork.gov.au/ArticleDocuments/837/gurukirpa-ji-pty-ltd-enforceable-undertaking.pdf.aspx)

Page reference No: 5179

Contact us

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

The Fair Work Ombudsman is committed to providing advice that you can rely on. The information contained on this website is general in nature. If you are unsure about how it applies to your situation you can call our Infoline on 13 13 94 or speak with a union, industry association or workplace relations professional. Visitors are warned that this site may inadvertently contain names or pictures of Aboriginal and Torres Strait Islander people who have recently died.