

Restaurant promised Korean cook \$52,000 a year pay-packet, but only dished up \$15,000

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A Sydney restaurant which agreed to pay \$52,000 a year to a cook recruited from South Korea under the 457 skilled visa program paid him just \$15,000 over 13 months.

The underpayment was discovered after the 29-year-old male employee complained to the Fair Work Ombudsman.

Fair Work inspectors found the cook had been underpaid a total of \$51,158 between April, 2013 and May, 2014 when he worked at the Carre Noir restaurant at The Concourse, Victoria Avenue, in Chatswood.

The restaurant was run by Paul & Holly Pty Ltd, which has since ceased to operate.

However, under an agreement struck with the Fair Work Ombudsman, restaurant manager Samuel Han has agreed to repay all outstanding wages and entitlements to the former cook by the end of March this year.

As well as underpaying minimum hourly rates, penalty rates, overtime, split shift allowances and annual leave, Paul & Holly failed to keep accurate employee records or issue payslips within one business day of wages being paid.

However, Mr Han has co-operated fully with the Fair Work Ombudsman and agreed to sign an Enforceable Undertaking.

In addition to the repayment plan, the Enforceable Undertaking requires Mr Han to:

- Make a written apology to the former employee,
- Place an advertisement in the local newspaper expressing sincere regret for the behavior and giving a public commitment that it will not occur again,
- Register with the Fair Work Ombudsman's My Account Portal and demonstrate to Fair Work inspectors an understanding of how to calculate wages and conditions under the Restaurant Industry Award,
- Make a \$1000 donation to the NSW Working Women's Centre towards education of workplace rights and obligations, and
- Conduct self-audits of workplace compliance at six monthly intervals for three years upon re-employing staff in the future.

Fair Work Ombudsman Natalie James says the Paul & Holly 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 (<http://www.fairwork.gov.au/>) 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

Small businesses can sign up to a regular newsletter from the Fair Work Ombudsman with helpful workplace tips and information.

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Paul and Holly EU (PDF 346.9KB) (www.fairwork.gov.au/ArticleDocuments/837/paul-and-holly-pty-ltd-enforceable-undertaking.pdf.aspx) (DOCX 150.5KB) (www.fairwork.gov.au/ArticleDocuments/837/paul-holly-pty-ltd-eu.docx.aspx)

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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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