

Taiwanese backpackers and international student from China short-changed \$43,000

7 July 2015

The Fair Work Ombudsman has taken enforcement action against a Taiwan-based company for underpaying overseas workers in Australia tens of thousands of dollars.

The company was paying three 417 visa-holders backpacking in Australia from Taiwan and an international student from China as little as \$12 an hour.

The Taiwanese employees spoke little English.

The four worked as cleaners, packers and a shop assistant for 85 Degrees Coffee Australia Pty Ltd, which trades as 85C Bakery café in Sydney.

A company director told the Fair Work Ombudsman that while “wage decisions were made at head office in Taiwan” the low hourly rate was struck after consulting friends and business associates to determine the “market rate” for Sydney.

The Fair Work Ombudsman identified underpayments totalling almost \$43,000 for the four workers after they turned to the Agency for assistance in October last year.

Fair Work inspectors used interpreters to communicate with the workers, two male and two female.

Under the Food, Beverage and Tobacco Manufacturing Award 2010, the cleaner and packers should have been paid an hourly rate of \$21.69 and up to \$54.23 for work on public holidays.

The retail shop assistant should have been paid an hourly rate of \$21.21 and up to \$36.99 for work on public holidays under the General Retail Industry Award 2010.

The underpayments related to casual loading, weekend, evening and public holiday shifts.

Collectively, the employees were underpaid a total of \$42,775 between January 2009 and October last year.

Individual underpayments ranged from \$5663 and \$16,586.

The company also failed to keep appropriate records and issue pay-slips.

85 Degrees Coffee was established in Taiwan in 2003 and now has over 320 stores in the region. An Australian arm of the business opened its first store in Sydney in 2006.

While the company had no previous history of non-compliance with workplace laws and has co-operated with the Fair Work Ombudsman, it has been required to enter into a formal Enforceable Undertaking (EU).

The EU requires the company to commission workplace relations training for its managers and directors and to engage an external accounting professional to conduct two audits of its workplace practices in 2016-17.

“The company will also donate \$5000 to the Sydney-based Asian Women at Work support group to help it promote workplace rights,” Fair Work Ombudsman Natalie James revealed today.

Each of the affected workers has received a written apology from the company expressing “sincere regret” for the behavior and been reimbursed all outstanding entitlements.

Ms James encouraged employers who had any uncertainty about whether their workplace practices were appropriate to visit www.fairwork.gov.au or call the call the Fair Work Infoline on 13 13 94 for advice.

A free interpreter service is also available on 13 14 50, and information on the website is translated into 27 languages.

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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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