

Korean backpackers short-changed \$28,000 – but sushi restaurant boss labels them “trouble-makers”

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The owner-operator of Bundaberg’s Nodaji Sushi restaurant and three other take-away sushi bars underpaid four young foreign workers almost \$28,600 in just six months, a Fair Work Ombudsman investigation has found.

Businessman Youngsig Kang initially told Fair Work inspectors the Korean backpackers had agreed to work for below-Award wages - and labelled them “trouble-makers” after they approached the Fair Work Ombudsman for help.

However, as an alternative to litigation, Mr Kang subsequently agreed to reimburse the workers all their outstanding wages and entitlements, publicly apologise for his behavior and give a commitment to comply with federal workplace laws in future.

Further, Mr Kang’s two companies, Knodaji Pty Ltd and Taejin Pty Ltd, will each make a \$5000 donation to the Queensland Working Women’s Centre to help it promote workplace rights.

Knodaji runs the dine-in sushi restaurant at 25 Targo Street, Bundaberg, trading as Nodaji Sushi, and Taejin operates take-away sushi outlets in the food courts of the Sugarland Shopping Centre in Bundaberg, Sunshine Plaza in Maroochydore and Stocklands at Hervey Bay.

The Fair Work Ombudsman began investigating wage practices at Mr Kang’s businesses after receiving requests for assistance from his former employees.

In the case of Nodaji Sushi, Fair Work inspectors identified that a female Korean backpacker on a 417 working holiday visa had been short-changed \$5639 between February and July last year.

The employee was underpaid her minimum hourly rate, casual loadings, penalty rates for weekends and received no superannuation contributions.

She was paid a flat rate of \$14 an hour for Monday to Saturday work when she should have received between \$21.65 and \$25.13 an hour as per the terms and conditions of the Restaurant Industry Award 2010.

The worker received up to \$22.50 an hour for Sunday shifts but should have got \$28.60.

Further, Knodaji unlawfully deducted \$12 a day from the employee’s wages for “food and drinks” even when she did not consume anything from the shop.

Deductions from wages are generally unlawful if they are not authorised by the employee in accordance with workplace law and are not principally for the benefit of the employee.

Fair Work inspectors also found that Knodaji breached workplace laws by failing to keep proper employment records and failing to issue employee payslips.

The company received an \$850 on-the-spot fine, which it paid.

Additional inquiries by the Fair Work Ombudsman identified that three other female employees of Mr Kang’s take-away sushi bars were short-changed more than \$22,000 between January and July last year.

The individual underpayments were \$8006, \$7514 and \$7435.

The female employees were also Korean backpackers in Australia on the 417 working holiday visa.

They were similarly underpaid their minimum hourly rates, casual loadings, penalty rates for weekends and did not receive superannuation payments.

Again, the employees received \$14 an hour for Monday to Saturday work but should have received up to \$25.70.

While they were paid up to \$23.33 an hour on Sundays, they should have got \$29.26 as per the terms of the Fast Food Industry Award 2010.

The employees also had \$12 a day unlawfully deducted from their wages for “food and drink” whether they consumed anything or

not.

Taejin Pty Ltd similarly breached workplace laws by failing to keep proper employment records or payslips – and also received an \$850 on-the-spot fine, which it paid.

Fair Work Ombudsman Natalie James says both companies have signed an Enforceable Undertaking, committing to a series of actions to ensure future compliance with federal workplace laws.

Each of the affected workers will get a written apology from Mr Kang and his respective companies expressing “sincere regret” for the conduct.

The Enforceable Undertakings also require Mr Kang to register and use the Fair Work Ombudsman’s My Account website tool and to engage an external specialist to audit the workplace relations compliance of both his companies.

Ms James says the case is a timely reminder to Queensland business operators of the need to ensure they take the time to understand and comply with the laws applicable to their workplace.

She encouraged employers who had any uncertainty about whether their workplace practices were appropriate or not to visit www.fairwork.gov.au or call the Fair Work Infoline on 13 13 94 for advice.

Online tools also include pay rate calculators to assist employers determine the correct Award and minimum wages for employees and free templates for pay slips and time-and-wages records.

The Fair Work Ombudsman provides practical assistance that is easy to access, understand and apply in support of compliant, productive and inclusive Australian workplaces.

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