

Back-payment bill for Sydney café operators after Korean workers short-changed almost \$40,000

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Two backpackers and an international student from Korea have been short-changed almost \$40,000 by a café operator in Sydney's CBD, an investigation by the Fair Work Ombudsman has found.

The three females, who spoke little English, were paid the equivalent of as little as \$5.05 an hour.

They were short-changed over nine months last year while working at two Incanto Coffee outlets, on Kent Street and George Street.

Two worked as food and beverage attendants and one worked as a cook.

The employees contacted the Fair Work Ombudsman about their wages before returning to South Korea.

Fair Work inspectors subsequently identified that the employees had been underpaid minimum wages, casual loadings, penalty rates, overtime and annual leave entitlements.

The employees should have been paid according to the Restaurant Industry Award, under which they were entitled to a minimum hourly rate of \$24.19 for normal hours and up to \$43.38 for public holidays.

The employees were underpaid amounts of \$17,807, \$10,812 and \$10,129 respectively - a total of \$38,748 - for work performed between April and December, 2014. Record keeping and pay slip laws were also breached.

The owner-operators of the cafes - Kyung Jun Kim and his company Marsil Pty Ltd - have back-paid the workers in full and signed an Enforceable Undertaking (EU) with the Fair Work Ombudsman to ensure future compliance with workplace laws.

Mr Kim and Marsil have agreed to engage an independent expert to audit the company's compliance within 18 months and report back to the Fair Work Ombudsman.

Further, Mr Kim is required to undertake workplace relations training and register with the Fair Work Ombudsman's online tool My Account.

Mr Kim is a Korean national who dealt with the Fair Work Ombudsman through an interpreter. He advertised for his staff on Korean websites.

Fair Work inspectors are increasingly finding cases of employers from non-English speaking backgrounds not appreciating the seriousness of failing to comply with their obligations under workplace relations laws.

Fair Work Ombudsman Natalie James says the Agency is working hard to build a culture of compliance with workplace laws in Australia by providing practical advice that is easy to access, understand and apply.

Ms James says it is important that there be a fair, competitive environment for employers who are doing the right thing by creating a level playing field in relation to business costs.

"Anyone operating a business, including migrants, needs to ensure they take the time to understand the workplace laws applicable to their business," she said.

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. An interpreter service is available by calling 13 14 50.

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Media inquiries:

Lara O'Toole, Media Adviser

Mobile: 0439 835 855

lara.otoole@fwo.gov.au (<mailto:lara.otoole@fwo.gov.au>)

Page reference No: 5557

Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

Need language help?

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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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