

Korean backpackers short-changed

3 August 2016

Two Korean backpackers working as cleaners in Sydney were underpaid thousands of dollars in just three months.

The two were in Australia on 417 working holiday visas.

In March last year, they took full-time jobs with a contractor to clean at a local college.

They were paid flat rates as low as \$15 an hour, cash-in-hand, and received their rosters via text message.

Under the Cleaning Services Award they should have received a minimum of \$18.01 an hour - rising to \$27.02 on Saturdays, \$36.02 on Sundays and \$45.03 on public holidays.

The two were short-changed a total of \$5400 and \$4085 each between March and June.

They have recently been fully reimbursed after requesting assistance from the Fair Work Ombudsman.

Both had limited English, and one required the services of an interpreter.

The money was repaid after the Fair Work Ombudsman issued the employer with a Compliance Notice.

A repayment plan of fortnightly instalments over three months was agreed to after the business provided evidence of financial hardship.

Fair Work Ombudsman Natalie James says the employer has been issued with a formal Letter of Caution following its behaviour.

"This puts the business on notice that further breaches of workplace laws may result in enforcement action against it," she said.

"The business was also issued with an Infringement Notice (on-the-spot fine) for \$850 over its failure to issue employees with pay-slips."

Ms James says that when first approached, the employer indicated he had looked to the Korean business community to work out a "going rate" for cleaners.

The Fair Work Ombudsman is increasingly finding cases of employers from non-English speaking backgrounds not understanding their workplace obligations or appreciating the seriousness of failing to comply.

Ms James says there is no "going rate" for Korean employees or indeed employees of any other nationality.

"Minimum wage rates apply to everyone in Australia - including visa-holders - and they are not negotiable," she said.

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

The employer engaged an accountant, who suggested to Fair Work inspectors that the employees were independent contractors.

"In the absence of a Tax File Number (TFN), an Australian Business Number (ABN) and a contract, this was dismissed," Ms James said.

Fair Work inspectors have now educated the accountant about bogus and sham contracting provisions of the Fair Work Act following his limited understanding of workplace laws.

She 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.

Visa-holders who are offered a job where there is no paperwork to sign and payments are made in cash should be concerned.

The Fair Work Ombudsman has a number of Inquiries underway to identify and address the structural and behavioural drivers of non-compliance in various industry networks and supply chains in which overseas workers are heavily represented.

These include a review of the wages and conditions of workers in Australia on the 417 working holiday visa and a Harvest Trail inquiry into the horticulture and viticulture sectors nationally.

The Fair Work Ombudsman recently released information about the work it conducted in calendar year 2015 involving visa-holders - view the [media release \(www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2016-media-releases/may-2016/20160510-visaholdersmr\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2016-media-releases/may-2016/20160510-visaholdersmr) .

"Visa-holders can be vulnerable if they are not fully aware of their rights or are reluctant to seek help, so we place a high priority on taking action to ensure their rights are protected," Ms James said.

Employers and employees can visit www.fairwork.gov.au or phone the Fair Work Infoline on 13 13 94.

An interpreter service is available by calling 13 14 50.

Information to assist people from culturally and linguistically diverse backgrounds has been translated into 27 languages and is available on the website.

The Agency also has fact sheets tailored to overseas workers and international students on the website and YouTube videos in 14 languages to assist workers to understand their workplace rights.

The Fair Work Ombudsman's Pay and Conditions Tool (PACT) provides advice about pay, shift, leave and redundancy entitlements.

Visit www.calculate.fairwork.gov.au (<http://www.calculate.fairwork.gov.au/>) to learn more.

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>) .

Sign up to receive the Fair Work Ombudsman's media releases direct to your email inbox at www.fairwork.gov.au/mediareleases (www.fairwork.gov.au/mediareleases) .

Media inquiries:

Eithne Johnston, Media Adviser

Mobile: 0439 835 855

eithne.johnston@fwo.gov.au (<mailto:eithne.johnston@fwo.gov.au>)

Page reference No: 6224

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.