

Filipino worker short-changed more than \$20,000 in just three months

13 February 2016

A Filipino welder recruited to work on the construction of a new brewery in Melbourne was underpaid more than \$20,000 in just three months, an investigation by the Fair Work Ombudsman has found.

The employee signed a contract that provided he be sponsored on a 457 visa and engaged on a salary of \$55,000 a year for four years.

However, without the worker's knowledge and before he left the Philippines, the employer paid for and arranged for a short-stay 400 temporary work visa instead, which allowed the employee to remain in Australia for up to 88 days.

The employer then reduced the annual salary to \$36,000 - about \$18 an hour.

The employee spoke limited English and required the services of an interpreter after contacting the Fair Work Ombudsman for help.

Fair Work inspectors subsequently found the employee was short-changed a total of \$20,260 for work performed between March 2 and May 23, 2015.

He was paid nothing at all for almost half the hours he worked on the site at Truganina, in Melbourne's western suburbs.

He was not paid overtime, weekend or public holiday penalty rates or annual leave entitlements.

Under the Manufacturing and Other Industries and Occupations Award, the worker was entitled to be paid more than \$19 an hour for normal work, \$29 an hour on Saturdays, \$39 on Sundays and \$49 on public holidays.

The employer also made unlawful deductions of more than \$3200 from the worker's salary for superannuation, airfares and a trade recognition certificate.

As a result, the Fair Work Ombudsman has taken enforcement action against the employer, Reddot Brewhouse (Aust) Pty Ltd, through an Enforceable Undertaking.

Fair Work Ombudsman Natalie James says the aim of the workplace pact is to encourage behavioural change and future compliance with workplace laws.

Reddot is owned by Singapore nationals Mr Kah Noe Ng and his daughter Ms Rui Qi Huang, who established the Melbourne micro-brewery to manufacture and bottle beer for export to South-East Asia.

In a record of interview, Mr Ng said he preferred to source workers from overseas because Australia's labour market was "too expensive".

Further, Mr Ng said he did not pay the worker for additional hours worked because his work was "disappointing and slow" and the employee "was not competent".

As part of the EU he has signed with the Fair Work Ombudsman, Mr Ng agreed to apologise to the employee and back-pay him all outstanding wages and entitlements.

He will also make a \$500 donation to the Migrante-North Association of Filipino Migrant & Workers Inc to fund education about workplace rights.

Additionally, the EU requires Reddot to:

- Implement systems and processes to ensure future compliance with workplace laws,
- Engage an external accounting professional to audit its workplace practices, and
- Register with the Fair Work Ombudsman's online tool MyAccount and demonstrate the ability to determine employee entitlements using the Pay Calculator.

Ms James says Fair Work inspectors are increasingly finding employers from non-English speaking backgrounds who have little or no understanding of their workplace obligations or the seriousness of their non-compliant behaviour.

"Anyone establishing a business, including migrant employers, needs to ensure they take the time to understand our workplace laws applicable to their business," she says.

"Migrant employers simply cannot undercut the minimum lawful entitlements of their employees based on what they think the job may be worth, what the employee is happy to accept, what other businesses are paying or what the job may pay in their country of origin.

"There are minimum pay rates, they apply to everyone - including visa-holders - and they are not negotiable for any reason."

Ms James says the Fair Work Ombudsman's Overseas Worker's Team (OWT) was established in mid-2012 in recognition that overseas workers can be vulnerable to exploitation or require special assistance.

The Fair Work Ombudsman is now receiving more requests for assistance from overseas visa-holders working in Australia than ever before. About 11 per cent of all requests for assistance lodged with the Agency last year came from visa-holders.

She encouraged employers with concerns about whether their workplace practices were appropriate to visit www.fairwork.gov.au or call the Fair Work Infoline on 13 13 94 for advice.

An interpreter service is available by calling 13 14 50, and information on the website is translated into 27 languages.

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- [Reddot Brewhouse \(AUST\) Pty Ltd - Enforceable Undertaking \(DOCX 155.5KB\)](http://www.fairwork.gov.au/ArticleDocuments/884/enforceable-undertaking-reddot-brewhouse-aust-pty-ltd-redacted.docx.aspx) (www.fairwork.gov.au/ArticleDocuments/884/enforceable-undertaking-reddot-brewhouse-aust-pty-ltd-redacted.docx.aspx) (PDF 538.4KB) (www.fairwork.gov.au/ArticleDocuments/884/enforceable-undertaking-reddot-brewhouse-aust-pty-ltd-redacted.pdf.aspx)

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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

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