

Queensland labour hire operator allegedly underpaid overseas workers \$77,000

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A labour-hire operator is facing Court for alleged exploitation of workers recruited from Vanuatu to pick fruit and vegetables in Queensland.

The Fair Work Ombudsman has taken legal action against Queensland man Emmanuel Bani and his company Maroochy Sunshine Pty Ltd, in the Federal Circuit Court in Brisbane.

Mr Bani allegedly recruited 22 workers from Vanuatu on 416 visas under Australia's Seasonal Worker Program in July, 2014.

He and his company were contractually obliged to provide each of the workers with at least 30 hours work each week and weekly wages of more than \$500.

However, Mr Bani allegedly arranged only sporadic fruit and vegetable picking work in the Lockyer Valley, Sunshine Coast and Bundaberg areas over four to seven weeks.

Thirteen workers were allegedly paid nothing at all and others were paid individual amounts of between \$50 and \$300.

In total, the 22 workers - who have since returned to Vanuatu - were allegedly underpaid \$77,649.

It is also alleged that annual leave entitlements were underpaid, pay-slip and frequency-of-pay laws were breached and that a Notice to Produce employment documents was not complied with.

Fair Work inspectors investigated after receiving a referral from the Department of Employment.

Fair Work Ombudsman Natalie James says information provided by the workers to Fair Work inspectors raised a number of concerns.

"The allegations made by the workers are highly concerning and we have chosen to commence legal action because of the seriousness of the alleged contraventions," Ms James said.

Ms James says another factor was the fact that Mr Bani had previously been put on notice of the need to pay employees' minimum lawful entitlements.

It is alleged that only five days before the 22 workers arrived from Vanuatu, Fair Work inspectors had met with Mr Bani in relation to another matter and reminded him of his obligations to comply with workplace laws.

Ms James also says it is important that the integrity of the Commonwealth Seasonal Worker Program be upheld.

"The Seasonal Worker Program helps contribute to the economic development of participating countries, while also offering Australian employers in the horticulture industry the ability to employ workers from selected Pacific Island countries and Timor-Leste when they cannot find enough local labour to satisfy seasonal demand," she said.

"People from the Pacific region and Timor-Leste can work in Australia on a short-term basis under the program, which is open to employers in agricultural industries (including the horticulture, aquaculture, cane sugar and cotton growing industries). It is also open to employers in certain locations across Australia in accommodation industries."

Mr Bani faces penalties of up to \$10,200 per contravention and his company faces penalties of up to \$51,000 per contravention.

The Fair Work Ombudsman is also seeking Court Orders for Mr Bani and his company to back-pay the workers in full, to comply with the Notice to Produce and to be required to inform the Fair Work Ombudsman in future if they employ any workers.

A directions hearing is listed for January 18 in the Federal Circuit Court in Brisbane.

Ms James says 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, an Inquiry into

allegations of systemic non-compliance within the 7-Eleven franchise network, an Inquiry into the workplace arrangements of workers cleaning 4 and 5 star hotels and a Harvest Trail inquiry into the horticulture and viticulture sectors nationally.

"The Fair Work Ombudsman will also continue to work with Taskforce Cadena, the Phoenix Taskforce and other relevant state and federal agencies to share intelligence in relation to overseas workers' rights," she said.

The Fair Work Ombudsman's Harvest Trail campaign was launched in 2013 in response to ongoing requests for assistance from employees in the horticulture sector, persistent underpayments and confusion among growers and labour-hire contractors about their workplace obligations.

The ongoing campaign has involved Fair Work inspectors making field trips and conducting audits at growing regions around the country, meeting with growers, labour-hire contractors, hostel operators, seasonal workers, industry bodies, local councils, unions and other relevant stakeholders.

In 2014, the Fair Work Ombudsman also commenced a national review of the wages and conditions of overseas workers in Australia on the 417 working holiday visa after receiving allegations that some unscrupulous operators were exploiting backpackers.

The 417 review is being conducted by the Fair Work Ombudsman's Overseas Workers' Team (OWT), which was established in 2012 in recognition that overseas workers can be vulnerable and require specialist assistance.

The OWT provides assistance to workers in Australia on temporary visas who have work rights, newly-arrived migrants who may not be aware of Australia's employment and workplace laws and newly-arrived migrants who, through their visa conditions, have committed to remain with their sponsoring employer for a period of time.

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