

Restaurant operator faces court for allegedly underpaying young workers

8 July 2016

The operator of a Melbourne restaurant is facing the Federal Circuit Court after allegedly underpaying staff more than \$26,000.

The Fair Work Ombudsman has commenced legal action against Abdul Hafeez Bilwani, who owns and runs the Red Salmon restaurant at the Knox O-Zone shopping centre in Wantirna.

Also facing Court is Mr Bilwani's company Finn Fish Pty Ltd.

It is alleged that 13 employees, including six young workers aged 19 or 20, were underpaid a total of \$26,707 between March and June last year.

Two employees worked in the kitchen and 11 performed general waiting and customer service duties.

The employees were allegedly paid flat rates of between \$16.87 and \$20.11 an hour.

However, it is alleged that under the Restaurant Industry Award they were variously entitled to be paid \$18.02 to \$22.53 for normal hours and penalty rates ranging from \$22.52 to \$45.05 for weekend, night, public holiday and overtime work.

Shift allowances and annual leave entitlements were allegedly also underpaid.

Alleged individual underpayments range from \$154 to \$4746.

The Fair Work Ombudsman investigated after an employee lodged a request for assistance.

Mr Bilwani and his company allegedly also contravened workplace laws by failing to keep proper employment records and failing to comply with a Notice to Produce pay records.

The employees have now been back-paid in full.

However, Fair Work Ombudsman Natalie James says the involvement of young workers and the fact that Mr Bilwani had previously been put on notice of the need to pay employees' their lawful minimum entitlements were significant factors in the decision to commence legal action.

Mr Bilwani had been clearly apprised of his obligations through a number of previous interactions with the Fair Work Ombudsman (and its predecessor agencies) arising from requests for assistance made by employees dating back to 2004.

Some of those matters were resolved by way of Mr Bilwani agreeing to make back-payments to employees.

Mr Bilwani faces maximum penalties ranging from \$5100 to \$10,200 per contravention and Finn Fish Pty Ltd faces penalties of between \$25,500 and \$51,000 per contravention.

The Fair Work Ombudsman is also seeking a Court Order requiring Mr Bilwani and his company to commission a professional external audit of their pay practice next year and rectify any underpayments discovered.

A directions hearing is scheduled for the Federal Circuit Court in Melbourne on August 22.

Ms James says the Fair Work Ombudsman is committed to improving compliance in the hospitality industry.

The Fair Work Ombudsman's three-year National Hospitality Industry Campaign, finalised earlier this year, resulted in more than \$1.2 million being recovered for underpaid employees at restaurants, cafés and catering companies throughout Australia.

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

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

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>).

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Fair Work Online: www.fairwork.gov.au

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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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