

\$10hr for backpacker - restaurant faces court

12 July 2016

A Melbourne restaurant is facing the Federal Circuit Court for allegedly underpaying a visa-holder from Taiwan as little as \$10 an hour.

The employee, who spoke limited English, was allegedly short-changed \$33,000 in just nine months.

Aged in her mid-20s, she came to Australia on a 417 working holiday visa and got a job as a kitchen hand at the Food Republic restaurant, now Kitchen Republik, at Box Hill.

The employee worked at the restaurant from June to November in 2014 and again from March to July last year.

She has since returned to Taiwan.

According to the Fair Work Ombudsman, the employee was paid flat hourly rates of \$10 and \$11.

Under the Restaurant Industry Award she was entitled to have been paid \$17.49 to \$18.02 for ordinary hours and penalty rates ranging from \$22.53 to \$45.05 for weekend, public holiday and overtime work.

Payment in lieu of notice and annual leave entitlements on termination of the former employee were allegedly not paid and record-keeping and pay-slip contraventions are also alleged.

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

The Agency today announced it had commenced legal action against Food Republic Australia Pty Ltd, which operates the restaurant.

While the restaurant has back-paid its former employee, Fair Work Ombudsman Natalie James says the size of the alleged underpayment and the involvement of a vulnerable worker were significant factors in a decision to litigate.

Food Republic Australia Pty Ltd faces maximum penalties ranging from \$25,500 to \$51,000 per contravention for multiple alleged breaches of workplace laws.

The Fair Work Ombudsman is also seeking Court Orders requiring the company to commission workplace relations training for its directors and to commission a professional external audit of the company's pay practice next year and rectify any underpayments discovered.

A directions hearing is scheduled for the Federal Circuit Court in Melbourne on August 2.

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 phone 13 13 94.

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