

## Lettuce farm contractor signs workplace pact after short-changing almost 100 overseas workers

28 June 2016

Dozens of international students and working holiday visa-holders are among farm workers in regional Queensland who have been underpaid thousands of dollars.

The overseas workers - from Taiwan, Hong Kong, Africa, France, Germany, Italy and the UK – were employed by labour contractor Team Search Harvesting.

They planted, weeded and picked lettuce on Story Fresh farms in the Darling Downs and Lockyer Valley in South-East Queensland.

Story Fresh is a family-owned vegetable farming and processing business which supplies shredded lettuce to fast-food outlets in eastern Australia.

Fast-food outlets using Story Fresh shredded lettuce include Subway and Hungry Jacks.

Story Fresh previously outsourced part of its workforce requirement to Team Search Harvesting, but has now severed its ties with the labour contractor.

Fair Work Ombudsman Natalie James says Story Fresh paid a contract price that was high enough for Team Search Harvesting to ensure its employees received minimum wages.

Ms James says Team Search Harvesting paid its employees under a piece-rate agreement to pick lettuce, but the agreements were invalid, as they were not signed – and a flat rate of \$15 for weeding and planting.

The Fair Work Ombudsman discovered the underpayment when it investigated a request for assistance from a former employee.

The worker was found to have been short-changed more than \$3200.

Further inquiries by Fair Work inspectors as part of the Agency's national Harvest Trail Inquiry revealed over 100 other workers had been underpaid.

A total of 107 casual employees were collectively short-changed a total of \$15,892 between January 1, 2014 to July 30, 2015.

They included 49 international students, 35 overseas workers on the 417 working holiday visa and 11 overseas workers on spousal visas.

Instead of the flat \$15 an hour they were paid, they should have received a casual hourly rate for normal work of \$20.40 from July 1, 2013.

This increased to \$21.09 from July 1, 2014 and \$21.61 from July 1, 2015.

Team Search Harvesting also made unlawful deductions from employee wages.

The company took out \$5 to cover the return daily bus trip to and from the properties the employee were working on without getting their written permission.

It also contravened workplace laws relating to record-keeping, issuing of pay-slips and providing the Fair Work Information Statement to new employees.

Ms James says the Fair Work Ombudsman has requested Team Search Harvesting partners Lai Yoong Ching and Swee Cheng Khong to sign an Enforceable Undertaking.

It is aimed at encouraging behavioural change and future compliance with federal workplace laws.

Ms James says fruit and vegetable growers rely heavily on seasonal labour – and these workers are often visa-holders from non-English speaking backgrounds who may be unaware of their workplace rights.

“Outsourcing is a legitimate business arrangement – but in my experience, in highly competitive markets for low-skilled work, it also increases the risk that workers will be underpaid, sometimes quite deliberately,” she said.

Ms James reminded employers using piece rates that they must have written agreements in place signed by the employee.

“In the absence of a piece-rate agreement, workers are required to be paid hourly rates of pay according to the Horticulture Award 2010,” she says.

Team Search Harvesting has agreed to implement a range of measures to ensure future compliance with their workplace obligations.

As part of the agreement, the company will rectify all underpayments by March next year, introduce systems and processes to meet workplace requirements and send a letter of apology to affected employees.

It has fully reimbursed the employee who lodged a request for assistance and so far repaid \$550 to the remaining underpaid workers.

Other requirements include placing a notice in the Toowoomba Chronicle about the contraventions, training staff in senior human resources, payroll and recruitment roles and engaging an external professional to audit the company's compliance with workplace laws.

The company will also register with My Account and distribute to new employees a Fair Work Information Statement and information about the Fair Work Ombudsman, employer records and pay-slip obligations.

The Fair Work Ombudsman recently announced it was taking legal action against a strawberry farm near Stanthorpe for underpaying some of its workers: [Media release - Queensland strawberry farm faces Court for allegedly short-changing workers \(www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2016-media-releases/june-2016/20160609-i-luv-litigation\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2016-media-releases/june-2016/20160609-i-luv-litigation) .

Employers and employees seeking assistance can visit [www.fairwork.gov.au](http://www.fairwork.gov.au) or contact the Fair Work Infoline on 13 13 94. Overseas workers can call 13 14 50 if they need interpreter services.

The Fair Work Ombudsman has fact sheets tailored to overseas workers and international students on its website. Information to assist people from culturally and linguistically diverse backgrounds has been translated into 27 languages.

Follow Fair Work Ombudsman Natalie James on Twitter [@NatJamesFWO](https://twitter.com/NatJamesFWO) , the Fair Work Ombudsman [@fairwork\\_gov\\_au](https://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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#### Download

- [Team Search Harvesting Enforceable Undertaking \(DOCX 175.1KB\) \(www.fairwork.gov.au/ArticleDocuments/884/enforceable-undertaking-team-search-harvesting-redacted.docx.aspx\)](http://www.fairwork.gov.au/ArticleDocuments/884/enforceable-undertaking-team-search-harvesting-redacted.docx.aspx) ([PDF 1.4MB\) \(www.fairwork.gov.au/ArticleDocuments/884/enforceable-undertaking-team-search-harvesting-redacted.pdf.aspx\)](http://www.fairwork.gov.au/ArticleDocuments/884/enforceable-undertaking-team-search-harvesting-redacted.pdf.aspx)

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