

Overseas workers short-changed \$92,000

2 March 2016

Dozens of Chinese and Taiwanese nationals working at a mushroom farm in regional NSW have been short-changed tens of thousands of dollars, investigations by the Fair Work Ombudsman have revealed.

Fifty-two casual employees, most of whom could not speak English, were collectively underpaid a total of \$92,381 over almost 11 months.

They were paid a flat hourly rate of \$16.37 to pick, weigh and pack mushrooms when they should have received \$20.14 and then \$21.08 for normal hours and up to \$37.95 on public holidays.

The underpayments arose after the mushroom farm outsourced its workforce requirements to a labour hire company at a rate which did not allow the contractor to pay minimum lawful entitlements applicable under the Horticulture Award 2010.

As a result, both Gromor Enterprises Pty Ltd, which operates the mushroom farm in the Hunter Valley, and its labour-provider - TDS International Investment Group Pty Ltd - have entered into a pact with the Fair Work Ombudsman aimed at encouraging behavioural change and future compliance with federal workplace laws.

Fair Work Ombudsman Natalie James says the two companies accepted shared responsibility for back-paying the workers all monies owed, with TDS funding \$51,974 and Gromor funding \$40,407.

The workers were underpaid for work performed at the Singleton mushroom farm between September 30, 2013 and August 24, 2014. The largest individual underpayment was \$6938.

Ms James says a contract price of \$20.50 an hour paid by Gromor to TDS was not enough for TDS to meet its obligations its workers. She said the \$16.37 rate paid by TDS was insufficient to cover casual loading, public holiday rates and superannuation contributions.

Ms James says the case highlights the importance of growers understanding - and ensuring - that when they contract out their labour, it cannot be at the expense of employee wages.

The worker underpayments were discovered as part of the Fair Work Ombudsman's national Harvest Trail Inquiry, 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.

Both businesses have signed Enforceable Undertakings giving commitments to ensure they will take a range of steps to ensure future compliance with their workplace obligations.

Ms James encouraged employers who had any uncertainty about their workplace practices to visit www.fairwork.gov.au or call 13 13 94.

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