

Brisbane 7-Eleven outlet faces Court action

18 November 2016

Another 7-Eleven outlet in Brisbane is facing Court for allegedly short-changing overseas workers thousands of dollars and creating false records to try to cover it up.

The Fair Work Ombudsman has announced legal action against the operators of the 7-Eleven fuel outlet at 508 Vulture Street, East Brisbane, for allegedly underpaying two employees - both international students from India aged in their mid-20s - a total of \$5593 over a five-month period in 2014.

Facing legal proceedings are the outlet's manager and part-owner Avinash Pratap Singh and a company he is a director of, S & A Enterprises (QLD) Pty Ltd.

The Fair Work Ombudsman conducted inquiries following media coverage relating to the outlet in 2015 and received a request for assistance from one of the employees.

It is alleged that Mr Singh and S & A Enterprises paid flat hourly rates as low as \$15 an hour, resulting in underpayment of minimum hourly rates, overtime rates, casual loadings and penalty rates for weekend and public holiday work.

Mr Singh and the company allegedly also created false employment records when making false entries into the 7-Eleven head office payroll system.

Mr Singh and the company allegedly also knowingly provided false time-and-wage records to the Fair Work Ombudsman. The false records allegedly misstated the hours of work and rates of pay, which had the effect of concealing the alleged underpayment of the employees. The alleged underpayments have now been rectified.

Mr Singh and the company allegedly also contravened workplace laws by failing to fully comply with two Notices to Produce issued by the Fair Work Ombudsman.

Mr Singh faces maximum penalties of up to \$10,200 per contravention and S & A Enterprises up to \$51,000. A directions hearing is listed in the Federal Circuit Court in Brisbane on February 6, 2017.

The Fair Work Ombudsman is also seeking Court Orders for S & A Enterprises to commission an audit of its compliance with workplace laws – and to report the results to the Fair Work Ombudsman and promptly resolve any non-compliance issues discovered.

In addition, the Fair Work Ombudsman is seeking a Court order for the company to display an in-store notice informing employees of entitlements.

The legal action against Mr Singh and S & A Enterprises is the latest of a string of compliance actions by the Fair Work Ombudsman aimed at addressing systemic non-compliance within the 7-Eleven network.

The matter takes to nine the number of 7-Eleven operators the Fair Work Ombudsman has taken legal action against since 2009.

Earlier this year, the Fair Work Ombudsman secured record penalties of more than \$400,000 in a legal action against one Brisbane 7-Eleven operator and also announced legal proceedings against the operators of three other 7-Eleven outlets in Brisbane:

- [Record penalty against 7-Eleven operator who systematically exploited staff \(www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2016-media-releases/june-2016/20160621-mai-penalty\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2016-media-releases/june-2016/20160621-mai-penalty)
- [Another 7-Eleven store faces Court action \(www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2016-media-releases/april-2016/20160407-js-top-litigation\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2016-media-releases/april-2016/20160407-js-top-litigation)
- [More 7-Eleven store operators face Court for allegedly short-changing employees \(http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2016-media-releases/january-2016/20160114-vipper-viplus-litigation\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2016-media-releases/january-2016/20160114-vipper-viplus-litigation)

The matter also follows the public release of the Agency's findings from a national Inquiry into 7-Eleven. A copy of the Report is available at www.fairwork.gov.au/inquiryreport (<http://www.fairwork.gov.au/inquiryreport>)

The Fair Work Ombudsman is currently in discussions with 7-Eleven about a robust and transparent arrangement that will satisfy the Agency that Head Office is taking the necessary steps to build a franchise operating model that ensures workers employed in its network are correctly paid into the future.

Fair Work Ombudsman Natalie James will today, in a speech to the Migration Institute of Australia National Conference, appeal to migration agents to assist in dispelling the myth that migrant workers are not entitled to the same wages as Australian citizens.

“I am conscious that many of you here wear two or more hats – operating as a migration agent and an accountant, solicitor or other type of business adviser. In your role as advisers, you are a crucial conduit of information to visa holders and to their employers,” Ms James will say.

Ms James will tell the Conference it is “not uncommon for visa holders to work for businesses run by other recent arrivals, sometimes of the same nationality, perhaps a relative or family friend to whom they feel strong loyalty”.

“We find that these business operators may not understand their obligations under the law and often bring cultural norms and work customs from overseas,” she will say.

“It’s particularly concerning to us when my Inspectors, investigating serious underpayments, hear migrant business people tell us that they ‘rang around’ to find out the ‘market rate’ for Korean or Chinese workers. Rates that are inevitably well below the minimum wage of \$17.70 an hour.

“While the Courts consider the situation of the business as well as the worker, they have also taken a dim view of those who do not familiarise themselves with Australian laws.

“And judges haven’t shown a lot of sympathy for migrant businesses that have been the beneficiary of advice or warnings from us and then have continued to pay rates as low as 12 or 15 dollars an hour. There is no ‘market rate’ for different nationalities of workers. Australia’s minimum wages must be paid to all workers. Even workers on visas, irrespective of their visa conditions.”

Employers and employees seeking assistance can visit www.fairwork.gov.au (<http://www.fairwork.gov.au/>) or call the Fair Work Infoline on 13 13 94. An interpreter service is available by calling 13 14 50.

Follow Fair Work Ombudsman Natalie James on Twitter [@NatJamesFWO](http://twitter.com/NatJamesFWO) (<http://twitter.com/NatJamesFWO>) , the Fair Work Ombudsman [@fairwork_gov_au](http://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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