

Beef farmer faces court action for allegedly short-changing 417 visa-holders \$38,000

28 September 2016

The operators of a remote beef cattle farm in Queensland are facing legal action for allegedly underpaying six backpackers from the UK and Ireland.

The six – in Australia on the 417 working holiday visa – worked at the farm in order to qualify for a second-year extension to their visa.

The Fair Work Ombudsman alleges they were paid a flat rate of \$17 an hour and collectively short-changed more than \$38,000.

The Agency announced today it had commenced legal action against Robert Maudsley, who owns and operates a cattle feedlot at Goomeri, west of Gympie.

Also facing Court is Mr Maudsley's company, Waterfall Feedlot Pty Ltd.

The backpackers, five men and one woman in their 20s, were allegedly underpaid a total of \$38,254 for work they performed on the farm between January, 2014 and September, 2015.

They went to work on the farm after responding to advertisements on the Gumtree website because they wanted to stay in Australia for two years.

To be eligible for a second year, 417 visa-holders must undertake 88 days specified work in a designated regional area and in certain industries in their first year.

The backpackers allegedly worked up to 13 hours a day, six-or-seven days a week, performing duties including driving tractors and dump trucks, feeding and mustering cattle and assisting to remove dead animals from pens.

It is alleged that three of the backpackers did not have a single day off during their employment, respectively working 64, 80 and 88 consecutive days.

Under the Pastoral Award 2010, the backpackers should have been paid between \$16.37 and \$17.79 for ordinary hours and up to \$37.96 for overtime work.

Public holiday pay and leave entitlements were allegedly also underpaid.

The largest alleged individual underpayment is \$11,592.

Mr Maudsley and his company also allegedly failed to comply with a requirement to ensure a copy of the Pastoral Award was made available to employees on the farm.

The Fair Work Ombudsman investigated after the backpackers lodged requests for assistance.

The Fair Work Ombudsman has previously received complaints from four other workers at the farm, including two backpackers, alleging underpayment of wages.

The previous matters resulted in almost \$4000 being reimbursed to workers who had been underpaid.

Mr Maudsley has previously been advised of his obligations under federal workplace laws and the need to comply with minimum wage rates.

Fair Work Ombudsman Natalie James says the decision to litigate over the latest alleged contraventions follows concern that Mr Maudsley continues to recruit and underpay vulnerable overseas backpackers.

Mr Maudsley faces maximum penalties of up to \$10,800 per contravention and Waterfall Feedlot Pty Ltd faces penalties of up to \$54,000 per contravention.

The Fair Work Ombudsman is also seeking a Court-ordered injunction restraining Mr Maudsley and his company from underpaying workers in future and an Order for him to ensure employees have access to a copy of the Pastoral Award.

If the injunction is granted, Mr Maudsley and his company could face contempt of court proceedings for any further underpayment

contraventions that are proven in court.

In addition, the Fair Work Ombudsman is seeking Court Orders requiring Mr Maudsley to commission a professional external audit of his company's compliance with workplace laws and workplace relations training for himself and other management staff.

A directions hearing is listed for October 24 in the Federal Circuit Court in Brisbane.

Last financial year, 1820 visa-holders contacted the Fair Work Ombudsman seeking assistance with workplace issues and the Agency recovered more than \$3 million for them in back wages and entitlements.

Almost half (44 per cent) of visa-holders who sought the Fair Work Ombudsman's assistance in 2015-16 were 417 visa-holders.

The Fair Work Ombudsman has a number of Inquiries underway to identify and address the structural and behavioural drivers of non-compliance in various industry networks and supply chains in which overseas workers are heavily represented.

Ms James says the Agency is concerned that the vulnerability of 417 visas-holders to exploitation is heightened during the 88-day working period to get the second-year visa because they need the employer's sign off that they have met the requirements for an extension. An Inquiry into the wages and conditions of workers in Australia on the 417 visa, which commenced in 2014 in response to allegations that some unscrupulous operators were exploiting backpackers, has concluded and the findings will be released soon.

The Fair Work Ombudsman is also conducting a Harvest Trail Inquiry into the horticulture and viticulture sectors nationally in response to ongoing requests for assistance from employees in the sector, persistent underpayments and confusion among growers and labour-hire contractors about their workplace obligations.

Ms James says the Fair Work Ombudsman treats underpayments of overseas workers particularly seriously. "Visa-holders can be vulnerable if they are not fully aware of their rights or are reluctant to seek help, so we place a high priority on taking action to ensure their rights are protected," she said. "Minimum wage rates apply to everyone in Australia – including visa-holders – and they are not negotiable.

Employers and employees can visit www.fairwork.gov.au or phone the Fair Work Infoline on 13 13 94. An interpreter service is available by calling 13 14 50.

Information to assist people from culturally and linguistically diverse backgrounds has been translated into 27 languages and is available on the website. The Agency also has fact sheets tailored to overseas workers and international students on the website and YouTube videos in 14 languages to assist workers to understand their workplace rights.

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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Media inquiries:

Ryan Pedler, Assistant Media Director

Mobile: 0411 430 902

ryan.pedler@fwo.gov.au (<mailto:ryan.pedler@fwo.gov.au>)

Eithne Johnston, Media Adviser

Mobile: 0439 835 855

eithne.johnston@fwo.gov.au (<mailto:eithne.johnston@fwo.gov.au>)

Page reference No: 6688

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Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

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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