

Hospitality Fair Work case study

Most employers are not HR professionals, so this can lead to them creating HR risk without them even knowing it.

Case overview

The operators of a Melbourne restaurant have been hit with nearly \$200,000 in penalties, after a Judge ruled they deliberately underpaid workers.

Owners of a restaurant at a Victorian Shopping Centre has been penalised \$29,500 and their company has been penalised an additional \$163,000.

The penalties, imposed in the Federal Circuit Court, are the result of an investigation and legal action by the Fair Work Ombudsman.

The company also contravened workplace laws by failing to keep proper employment records and failing to comply with a Notice to Produce pay records.

A Fair work spokesperson said the underpayments were a “significant imposition upon workers who are earning low rates of pay”.

Case facts

- Thirteen employees at the restaurant, including six young workers under 21, were underpaid a combined \$26,707 over a period of just three-and-a-half months in 2015.
- Workers were paid flat rates which failed to meet the minimum hourly rate for 11 of the workers. The flat rates were also not enough to meet weekend, overtime, night and public holiday penalty rates under the Restaurant Industry Award 2010.
- Casual loading, shift allowances and annual leave entitlements were also underpaid.
- The employees missed out on between 16.95 and 38.22 per cent of their minimum entitlements. They have now been back-paid in full.
- Penalties in excess of \$200,000

What they should have done

The staff were entitled to higher pay rates, penalty rates, night and public holiday rates. In addition, they were also underpaid casual loading, shift allowances and annual leave entitlements.

How Happy HR would have helped this business avoid the fair work claim

Through the Happy HR induction process, we would have ensured that all staff receive the correct level of pay and allowances. Our system and support service would clearly identify the gaps and mitigated any risk to ensure the business owners were aware of the laws and correct award interpretations.

Happy HR ROI (based off a 50-person company)

Fair Work penalty = \$200,000 = An equivalent of 66 years subscription with Happy HR! Plus countless hours saved on administration and in Fair Work!

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