

Real Estate 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

A real estate agent in the Melbourne suburb of Hawthorn has received extensive advice and assistance about its workplace obligations after paying a visa-holder just \$9 an hour.

The business has agreed to back-pay the 28-year-old Chinese worker \$5000 after the Fair Work Ombudsman found he was being underpaid.

The employee, who was on a 485 temporary graduate visa, was paid less than \$375 a week for duties including drafting contracts, general administration and assisting buyers.

He sought assistance from the Fair Work Ombudsman after reading about Australia's minimum wage and trying unsuccessfully to resolve the issue with his employer.

When contacted by the Fair Work Ombudsman, the business operator believed that the employee was being correctly paid as an intern.

However, the Fair Work Ombudsman explained that the worker was an employee, and even if on probation, was entitled to the minimum wage.

Fair Work Ombudsman Natalie James says employers need to take the time to understand the wage rates applicable to their workplace.

"It is unacceptable for an employer to take advantage of any worker, especially overseas workers who have a limited understanding of their workplace rights," she says.

"We have minimum pay rates in Australia, they apply to everyone, and they are not negotiable.

"While many employers want to do the right thing, there are some who seek to gain a competitive advantage by exploiting vulnerable workers, such as visa-holders."

Case facts

- \$5000 back-pay to an employee
- The employee was paid just \$9 an hour (less than \$375 a week)
- The employer believed that the employee could be classified as an intern, which is not the case.

What they should have done

The company should have better understood employee classification and their rights under the relevant award and minimum entitlements included within the award and NES.

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

The Happy HR team would be able to outline basic employee entitlements. With our Premium Services, employers have a qualified HR consultant capable of completing Award Interpretations for each employee.

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

Fair Work penalty = \$5000.00 = An equivalent of 8.4 years plus countless hours saved on administration and in Fair Work!