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Writer name	Stephen Farrell
Writer headshot	

Third party review required: Y or N **N**

Heading **Remember! Employees are humans too**

A McDonalds franchisee learned an expensive lesson recently that employees are not robots and need to be treated with respect.

Tantex Holdings, who operated six McDonalds stores in Queensland was recently fined for denying its employees paid ten minute breaks that they were entitled to under the enterprise agreement. Furthermore, it exacerbated and inflamed the situation by posting an inflammatory Facebook post to employees, after being approached by the Union over employees allegedly being denied the ability to use staff restrooms or have a drink of water.

A recent Federal Court case ended by a judge imposing fines of \$82,000 on the McDonalds franchisee for its breaches of an enterprise agreement, the FW Act and some would say, human decency.

The issue began when workers complained to their union that their employer was not allowing them to have a paid ten minute break as provided in the enterprise agreement whilst working their shifts. The union approached the franchisee and in response, the franchisee posted on Facebook a message to its employees stating

“As we all LOVE legislation and are clearly so hard done by... let me clarify the below ENTITLEMENT!!!

We are more than happy to go with the standard 10 minute break policy as below for those crew who are all over Facebook tagging each other and commenting.

But let me clarify for you how this 10 minute break rule actually works.

If you work longer than 4 hours, you become eligible for a ‘10 minute break’. So for the majority of crew you actually probably don’t ever qualify for a ‘10 minute break’.

What this means is that if we implement this over our current situation, on your shift – this 10 minute break would be the only time you would ever be permitted to have a drink or go to the toilet. So I hope to go you don’t get thirsty on your next shift because we just wouldn’t be able to allow a drink. Fair is Fair right?

But as we go above and beyond for our people and we like to treat you guys much better than this, we allow ALL our employees irrelevant of shift length to have a drink of water s you require and have a toilet break on shift as you require.

Are we really such bad guys? Honestly !!!

It actually works better in our favour to follow this ‘legislation’ and keep you all working non stop.

Hope this clarifies anyone’s raging concerns!

The franchisee was attempting to justify its position by stating that it allows employees to go to the toilet or have a drink of water if they needed to and that would stop if the workers pursued their complaints.

The Union sued Tantrex Holdings and won. The judge commented that leaving the work floor and going to the toilet was a fundamental workplace right and by denying this, Tantrex was in breach of the Act. Furthermore, he viewed the Facebook post as an attempt by the employer to misrepresent workers' rights and intimidate them from pursuing their entitlements. As such, the franchisee was order to reimburse the employee who was named in the claim, \$800 plus \$1000 in compensation in addition to the fines. The fines were:

\$12,000 for misrepresenting workers' rights

\$40,000 for coercion

\$30,000 for denying its employees toilet and drink breaks.

In addition to all this, whilst not reported in the case, it is just about certain that the franchisee has also lost all good will from its staff for the future.

Lessons to be learned:

Employees are human beings and need to be treated as such. Ensure employees are able to perform usual bodily functions and facilities are provided so that they can do so.

If you are going to respond to employee complaints or issues brought forward, do so professionally and ensure that any information, particularly relating to employment conditions are correct.

Employment Agreements, just as Awards, must be complied with.

More information

If you have a workplace issue and would like to seek some advice, please contact Stephen Farrell at SJF Work Advice Pty Ltd at stephen@sjfworkadvice.com.au or 0455 833 352

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