

Dishwashing service company licensee jailed for employing illegal workers

A dishwashing service company licensee was convicted of charges related to employing a person who was not lawfully employable and was sentenced to six months at the Shatin Magistrates' Courts yesterday (January 23).

During July 2022 to February 2023, enforcement investigators of the Immigration Department (ImmD) raided a restaurant and arrested nine illegal workers working as dishwashing workers. Follow-up investigations by investigators revealed that the illegal workers were employed by the same dishwashing service company, and thus the dishwashing service company licensee was arrested. The licensee is a Hong Kong resident, male, aged 72. He is charged of being an employer of a person who was not lawfully employable as he did not take all practicable steps to ascertain whether the applicant was lawfully employable prior to employment. After trial, the licensee was sentenced to six months by the Shatin Magistrates' Courts yesterday.

The illegal workers, who were employed by the licensee, comprised nine women (including eight Indonesian women and one Chinese woman), aged 22 to 56. Among them, one Indonesian woman was a holder of a recognisance form, which prohibits her from taking any employment. The illegal workers were jailed by the Shatin Magistrates' Courts earlier and were sentenced to imprisonment ranging from 15 months to 15 months and 16 days.

The spokesman reiterated that it is a serious offence to employ people who are not lawfully employable. Under the Immigration Ordinance, the maximum penalty for an employer employing a person who is not lawfully employable, i.e. an illegal immigrant, a person who is the subject of a removal order or a deportation order, an overstayer or a person who was refused permission to land, has been significantly increased from a fine of \$350,000 and three years' imprisonment to a fine of \$500,000 and 10 years' imprisonment to reflect the gravity of such offences. The director, manager, secretary, partner, etc, of the company concerned may also bear criminal liability. The High Court has laid down sentencing guidelines that the employer of an illegal worker should be given an immediate custodial sentence.

According to the court sentencing, employers must take all practicable steps to determine whether a person is lawfully employable prior to employment. Apart from inspecting a prospective employee's identity card, the employer has the explicit duty to make enquiries regarding the person and ensure that the answers would not cast any reasonable doubt concerning the lawful employability of the person. The court will not accept failure to do so as a defence in proceedings. It is also an offence if an employer fails to inspect the job seeker's valid travel document if the job seeker does not have a Hong Kong permanent identity card. Offenders are liable upon conviction to a maximum fine of \$150,000 and to imprisonment for one year. In

that connection, the spokesman would like to remind all employers not to defy the law by employing illegal workers. The ImmD will continue to take resolute enforcement action to combat such offences.