

# Employers Must Toe Info Line

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When you are involved in an employment dispute, either as the employer or the employee, it is important to go back to your employment agreement. Be it an enterprise agreement or other contractual instrument, a problem we see day to day is that clients often come to us without the relevant source documents. These documents are the first thing we would want to look at in many circumstances of a disagreement between a worker and their boss.

Particularly in this electronic age, documents have often been saved to email and accidentally deleted, or alternatively put in a “very safe place” at home. In that case the next step is to obtain the relevant documents from the employer - a step that is sometimes resisted.

It is important that employers understand their duties pursuant to the Fair Work Act in this regard. In particular, section 535 of the Act requires an employer to keep employee records for seven years as prescribed by the Fair Work Regulations. The regulations in chapter three, division three, go on to describe the documents the employer must hold for that seven years. Content that must be retained in the relevant documents includes the employer's name, employee's name, whether employment is full-time or part-time, permanent, temporary or casual and when the employment started. Further, if the employment started after January 1, 2010, they must also provide the employer's ABN.

In addition to keeping the records, the employer must make them available to the employee when requested. Failure to do so gives rise to the employee's right to make an application for those records be provided, and potential contraventions of the civil remedy provisions of the Fair Work Act.

Basically, the best approach is to ensure that as the employer you hold onto records of the employee, and make them available to the employee upon request.

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