

Resolution Requires Process

Published in the Daily Mercury on Wednesday, 26 August 2015



Personal conflict in the workplace is something that all of us in one way or another have witnessed. The conflicts may arise as a result of a simple misunderstanding which can then go on to be resolved or alternatively, they can be more sinister in nature and impact on the “morale” of the workplace.

As an employer, mediating disputes between your employees is not high on your “fun things to do” list. As a result, sometimes shortcuts are taken with a genuine intention of making the process as painless as possible for all involved.

Unfortunately, this is not the best way forward. Shortcuts will almost always see you come unstuck, particularly if an employee is adversely impacted as a result.

To avoid a successful claim being made against you for unfair dismissal, it is imperative that you provide the employee with an opportunity to respond to allegations made against them. To fail to do so, and then ultimately dismiss the employee could see that dismissal as being considered “harsh, unjust or unreasonable” therefore, supporting an unfair dismissal claim.

The remedies available to an employee who has been unfairly dismissed are either reinstatement (if the employment relationship has not been damaged beyond repair) or compensation pursuant to the relevant legislation.

While not all employees are eligible to bring an application for unfair dismissal through the Fair Work Commission, if they do not qualify in that jurisdiction, chances are they qualify to bring a contractual claim against the employer in the Federal jurisdiction for wrongful dismissal. Other possible remedies available to employees who feel aggrieved because their employer has not fully addressed a conflict in the workplace include adverse action, workplace bullying and discrimination. For this reason, it is best that employer’s protect themselves from any possible claim at the outset.

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Elsbeth’s articles can be accessed on the Daily Mercury website at <http://www.dailymercury.com.au/topic/elsbeth-ledwy/> or you can find Elsbeth’s column “Mind Your Own Business” in the Daily Mercury newspaper each Wednesday.



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