

# No-Show Can Mean No Job

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As an employer you quite rightly expect your employees to attend work, or provide notice in the event of permitted leave. What happens though, if your employee simply fails to turn up to work?

The failure to present at work, without notification could be for a completely genuine reason, or perhaps not so genuine. Regardless of the reason, the employer is often left scratching their head when it comes to working out payments, other entitlements and often most importantly, how to fill the gap that has been left in the workplace.

For this reason, it is important to draft your employment contracts to take into consideration “abandonment of employment” and the way that it shall impact the employee’s entitlements and the employer’s method of moving forward.

The case law surrounding this area of law is far from straightforward, and there have been considerations of various situations where abandonment has amounted to a termination of the employment contract. Likewise, there have also been cases where the employer has been set straight by the court, in situations where the employer had considered the employment contract had been terminated by abandonment. Things such as ongoing sickness and workplace disputes have muddled the waters in the past in determining whether or not the employment has been terminated by abandonment.

While an express term in an employment contract may not in all cases prevent a dispute about whether or not the employment contract has been effectively terminated by the employee due to abandonment, if drafted correctly, the contract can certainly provide guidance as to the length of time that an employee can be missing from the workplace without excuse, prior to termination without notice.

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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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