
Employment Law: Compensation for Unfairly Sacked Truckie

Date : July 25, 2017

Employment Law - Background

In *SR v Geelong & Surfcoast Laundry T/A Swim Alumni Pty Ltd*, the Fair Work Commission ruled that a truckie involved in three accidents and an alleged road rage incident was unfairly dismissed.

Employment Law - Facts

In essence:

- the employee was employed by Surfcoast Laundry as a casual truck driver from March 2015 until November 2016
- the employee was dismissed for having three accidents in a year and for allegedly being involved in a road rage incident
- however, the employee received no written warnings, was not told the reason for his dismissal at the time it occurred and was not given an opportunity to respond
- Surfcoast Laundry claimed the dismissal was in accordance with the summary dismissal section of the Small Business Fair Dismissal Code which indicated that it was fair to dismiss an employee without notice or warning if an employer believes on reasonable grounds that an employee's conduct was sufficiently serious to justify immediate dismissal.

Employment Law - Fair Work Commission Decision

The Fair Work Commission:

- found that whilst intervention may have been warranted, the dismissal was disproportionate to the severity of the conduct
- whilst the employer's evidence that the accidents and alleged road rage incident contributed to the decision to dismiss, it was held that the operative reason for dismissal was the employer's annoyance at the employee complaining about underpayments
- held that the termination was harsh, unjust and unreasonable due to the lack of procedural fairness and the lack of a valid reason for dismissal
- the employee was awarded \$14,995 in compensation

Employment Law - Tips for Employers

Our **Matthews Folbigg Workplace Solutions** employment law team recommends employers:

- review this Fair Work Commission decision

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- seek the assistance of an employment lawyer to understand the impacts of this Fair Work Commission decision
 - ensure compliance with all employment laws including Fair Work Commission decisions, Awards and enterprise agreements
 - fairly, consistently and lawfully respond to breaches of employment laws including Awards and enterprise agreements
 - follow good HR practice when it comes to performance management
 - not unreasonably apply the Small Business Fair Dismissal Code
 - raise any employment law questions with an employment lawyer

The decision is available for you to read through the following hyperlink:

[SR v Geelong & Surfcoast Laundry T/A Swim Alumni Pty Ltd \[2017\] FWC 2321 \(28 April 2017\)](#)

Employment Law – More Information

Please call the leading employment lawyers in Parramatta, the **Matthews Folbigg Workplace Solutions** employment law team, on **9635-7966** to speak with one of our employment lawyers.