



# Employment Law - No Compensation for Employee who fibbed on CV

Date : November 22, 2017

## Employment Law – Background

The Fair Work Commission has held that a company's failure to provide notice to a finance manager rendered her termination unfair. However in an interesting turn of events, declined to award compensation because she "deliberately deceived" them of her qualifications.

## Employment Law – Facts

In essence:

- In her application for an accountancy role at Spectrum Community Focus Limited, the manager claimed that her qualifications included "ASA-CPA Australia" (an associate member, who had six years to complete training to become a full member of the professional body for accountants) and had an MBA
- She later became the finance manager, reporting directly to the CEO and board of directors and responsible for preparing financial reports
- In November in the lead up to her dismissal, she made several blunders including failing to file the company's return to the Australian Charities and Not-for-profits Commission (ACNC) by the required time frame. She also made several mistakes with the 2015 reports, including not reporting an apparent \$600,000 loss to the managing director
- On November 30 the managing director detailed the allegations against the finance manager in a letter, including the claim that she reported a loss of \$86,000 when the correct position was a \$322,908 profit.
- On December 14, the company met with the finance manager who blamed the managing director and others for the allegations in the November 30, letter
- She was immediately dismissed for serious misconduct instituted by her late lodgement to the ACNC, her poor financial reporting and her attitude towards the allegations made against her

## Employment Law – Fair Work Commission Decision

The Fair Work Commission:

- believed that the finance manager caused the company "serious damage" when she failed to file its ACNC return within the timeframe or provide acceptable financial reports for 2015
- found that the manager's dismissal was not unfair "except in one limited respect", as the company failed to provide her notice of termination which set out the reasons for her



dismissal

- believed that her dismissal for serious misconduct would have been better characterised as ‘poor performance’, which normally justifies notice
- declined to award compensation because she had “deliberately deceived” the company of her qualifications when she applied for the position. She admitted that she did not have a master’s degree and was not an associate member of the CPA Australia
- Stated it “would be reasonable to infer that at least part of the [finance manager’s] poor performance was due to the fact she was ‘out of her depth’ in performing the finance manager’s role”

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

[\*Emma Valenzuela v Spectrum Community Focus Limited t/as Spectrum Community Focus \[2017\] FWC 5007 \(4 October 2017\)\*](#)

## **Employment Law – Tips for Employers**

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

- review this Fair Work Commission decision
- seek the assistance of an employment lawyer to understand the impact of this Fair Work Commission decision
- ensure compliance with all employment laws including Fair Work Commission decisions, Awards and enterprise agreements
- undertake a detailed process when recruiting employees

## **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.