Fair Work Commission: Support Person in Disciplinary Meetings

Date : October 4, 2017

Employment Law – Background

The Fair Work Commission has ruled that a HR manager should not have allowed a company a manager to be put forward as a ‘support person’ for an employee who was under threat of dismissal.

Employment Law – Facts

In essence:

- the employee, a retail supervisor at RACV’s Cape Schanck Resort, sought to have the company’s manager present as her ‘support person’ at a disciplinary meeting
- however, the company opposed this as the selected ‘support person’ worked directly with the employee

Employment Law – Fair Work Commission Decision:

The Fair Work Commission:

- determined that the resort manager “should not have allowed his name to be put forward as a potential support person” and HR also shouldn’t have allowed it to occur
- held that the resort manager could “by no means be regarded as someone who would give [the retail supervisor] ‘support’ in any of the capacities implied by that word; whether as an advisor, counsellor or representative”
- suggested the selection was inappropriate as the resort manager was in “attendance at the [disciplinary] meeting on Friday, 24 March 2017 as the management representative” and “he was the one who signed the letter of dismissal” to the retail supervisor
- nevertheless held that the company had not unreasonably refused to allow the retail supervisor to have a support person present at the meeting
- upheld the employee’s dismissal

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

Leanne Trembath v RACV Cape Schanck Resort [2017] FWC 4727 (13 September 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 impacts of this Fair Work Commission decision
- seek advice from an employment lawyer on who may be an appropriate support person if in doubt
- train HR managers/staff about this Fair Work Commission decision
- raise any employment law questions with an employment lawyer

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.