

Employment Law - Poor Response to Parental Leave

Date : November 27, 2017

Employment Law - Background

A company was found to have taken adverse action against a pregnant employee and were ordered to pay \$57,000 in compensation because they made her redundant just days before she took maternity leave.

Employment Law – Facts

In essence:

- In 2015 the company decided to make several roles redundant as of November 12
- However, they moved the redundancy date for a pregnant employee forward to two days before she took maternity leave
- They believed moving the date was in her best interest
- The employee claimed that she was dismissed because of her maternity leave

Employment Law – Decision

Judge Salvatore Vaster of the Federal Circuit Court:

- found that the employer had taken adverse action against the employee
- whilst noting the reasons for the redundancy were genuine, believed that moving the date of the employee's redundancy amounted to changing her position to her prejudice, on the basis she did not have the chance to discuss the reasons for redundancy or contemplate other appropriate positions in the company
- noted that "it was a clumsy attempt at trying to balance the perceived needs of the [employer] with the best interests of the [employee]"
- ordered the employer pay \$37,842 in compensation and an additional \$20,000 as a pecuniary penalty

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

Power v BOC Pty Ltd & Ors ([No.2](#)) [2017] FCCA 2387 (3 October 2017)

Employment Law – Tips for Employers

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

- review this employment law decision
- seek the assistance of an employment lawyer to understand the impact of this decision
- ensure that redundancies are implemented fairly and consistently



- ensure employment contracts and employment law policies comply with relevant employment laws, Fair Work Commission decisions, common law employment law principles and contractual obligations
- 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.