

Redundancy Consultation Cannot be ‘Hollow’

Date : August 22, 2017

In [Belinda Lee v Mission Australia](#), the Fair Work Commission warned against “hollow” consultation in redundancy, emphasising that it cannot be conducted for mere show and must have value.

Facts

In essence:

- A program manager at Mission Australia alleged that she was made redundant without consultation whilst she was on parental leave
- Mission Australia wrote to the manager stating she was going to be made redundant as they were no longer delivering their Skills for Education and Employment course and Adult Migrant English Program after Federal Government funding cuts. They stated they failed in their search for redeployment opportunities for her
- The manager’s request to delay her retrenchment and redeployment period until after she returned from parental leave to see if any further opportunities arose, was rejected by Mission Australia

The Decision

The Fair Work Commission:

- granted an interim order which prevented Mission Australia from retrenching the manager
- emphasised that consultation must have a purpose, stating that “if the consultation does not provide [the program manager] the opportunity to influence the decision, it is of no value and the requirement to consult and the consultation is hollow”
- in determining whether redundancy was undertaken without consultation, Mission Australia needed to address three main issues, including whether it had engaged in meaningful consultation, had done all it could do to mitigate any adverse effects of the redundancy and had made all reasonable redeployment efforts.
- highlighted the importance of making interim orders as the dismissal could only be undone with significant litigation
- The parties reached a confidential settlement after conciliation

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

[Belinda Lee v Mission Australia \[2017\] FWC 3557 \(4 July 2017\)](#)

Tips for Employers



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

- ensure that when making an employee redundant employers have:
 - engaged in meaningful consultation
 - mitigated against any adverse effects of the redundancy
 - made all reasonable deployment efforts
- ensure compliance with all employment laws including Fair Work Commission decisions, Awards and enterprise agreements
- draft new/changes to employment law policies with the assistance of an employment lawyer
- raise any employment law questions with an employment lawyer

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.