



IN BRIEF FROM
RAINEY COLLINS
LAWYERS

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Employee's dismissal for failure to wear safety gear and for abusive language upheld...

The Employment Relations Authority has dismissed a personal grievance claim for unjustified dismissal. The employee was repeatedly told to wear his safety equipment but continually refused and became abusive and threatening towards his employer.

The employee was suspended and given notice of a disciplinary meeting. After the meeting he was dismissed for serious misconduct in relation to the failure to wear the safety equipment and the abusive and threatening language.

The ERA held that the failures to follow the reasonable and lawful instructions to wear the safety equipment justified his dismissal, as did the abusive and threatening language.

The ERA said that the employer should have warned the employee that a dismissal was a possibility but in the circumstances the employee already knew that.

The ERA also said that even if the employee had been successful in his claim that it would have reduced any remedies by 100% because of his misconduct..

ALAN KNOWSLEY



Boxes stacked on the floor cost business over \$42,000...

A client visiting a business tripped and fell over a box on the floor. The fall injured his hip and left him with a fractured femur.

The business was protected from a personal injury claim, due to ACC legislation, but was prosecuted for a breach of health and safety legislation.

The charge laid was for failing to take all practicable steps to ensure a workplace hazard would not harm visitors. The boxes stacked on the floor were identified as a hazard which may cause injury.

The business pleaded guilty immediately, expressing remorse. While the business accepted that the boxes on the floor caused the man to fall, it pointed out that there was plenty of space around the boxes and there was enough space to pass despite the boxes on the floor.

The District Court imposed a fine of \$75,000 and further reparation of \$4,000 to the man who had tripped. This was in addition to an earlier \$5,000 payment made by the business.

On appeal, the High Court reassessed the appropriate fine and concluded the District Court's figures were not clearly excessive or inappropriate. The fine was reduced, however, because the business and the prosecuting Ministry agreed to discounts for mitigating factors and the early guilty plea. The total fine imposed was therefore \$42,100. Still a very significant cost on the business from a failure to identify and eliminate the hazard.

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