

Bad workplace behaviour

Most readers will be aware of the recent well publicised example of two employees enjoying each other's company on company premises after hours.

It was a high-profile example of poor behaviour resulting in disciplinary processes being put in place.

The things employees and employers get up to go a lot further down the bad behaviour trail than that example. Some recent cases:

Employee resigns after accusing employer of embezzlement.

An employee who worked as an office and sales administrator resigned after reporting incidents of bullying and intimidation by her employers.

The employee believed that one of her employers was embezzling money from the business and implemented a cash-handling system, which caused resentment and tension between them.

The employee was hospitalised owing to work stress and did not return to work.

The Employment Relations Authority (ERA) upheld the employee's personal grievance claim for unjustified constructive dismissal.

The employer failed to provide the employee with a safe working environment, which caused her stress, and led to her ill health and resignation.



LEGAL MATTERS

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The ERA held that the employer's breach was of sufficient seriousness to render the employee's resignation reasonably foreseeable and awarded more than three months' lost wages plus \$10,000 compensation for hurt and humiliation.

Employee who faked injury fined.

The ERA fined an employee \$1500 as a deterrent to others who attempt to con their employer and the authority over alleged injuries.

The employee claimed a shoulder injury prevented her carrying out her tasks in a retail store. Photographs taken by a private investigator showed her carrying out tasks inconsistent with her claimed injury.

The authority found that the information she had provided to her employer, doctor, ACC and the ERA was false and deliberate over a sustained period of time.

Her conduct was in breach of her employment agreement and good faith obligations.

Truck driver falsifies logbooks and timesheets.

A truck driver was dis-

missed after his employer discovered he had falsified his logbooks and timesheets, and had failed to take breaks as required by the company.

The ERA rejected the employee's personal grievance claim for unjustified dismissal.

It held that the employer had substantial justification for finding the employee had committed serious misconduct as he was part of the Health and Safety Committee and knew the company's policies concerning breaks.

The employee also acknowledged he was aware of the company's policies and expectations and knew if he breached them he could face disciplinary action.

He understood that failure to observe safety rules and the falsification of documents constituted serious misconduct under his collective agreement.

The authority held that the employer carried out a full and fair investigation.

The employee had been provided with all relevant information and been advised of the allegations against him and the possible outcomes of the disciplinary process.

He was represented by union delegates at disciplinary meetings, which were postponed when the employee became unwell. The employer gave the employee the opportunity to respond to the allegations and genuinely con-

sidered his explanations before making his decision.

Employer threatened to fire staff member after affair.

An unfaithful chief executive (normally responsible for disciplining employees) bullied a female staff member by threatening to have her fired if she exposed their extra-marital relationship or her pregnancy.

The chief executive would normally be the person employees turned to if a manager was acting badly, so the employee had limited options for raising her complaint.

She correctly complained to the board about the chief executive's behaviour. The board instructed him not to contact the employee, but he defied their instructions and failed to participate in the disciplinary proceedings.

The chief executive then faced employment processes plus disciplinary action from his professional registration organisation.

As can be seen, bad behaviour is not restricted to just employers or just employees. Everyone needs to follow the right processes to raise issues about poor (or illegal) workplace behaviour.

■ Column courtesy of Rainey Collins Lawyers, phone 0800 733 484. If you have a legal inquiry you would like discussed in this column, email aknowsley@raineycollins.co.nz.