Employer Bulletin

Our Weekly News Digest for Employers

Friday, 5 June 2020

In this Issue

Contact Us

NZ 0800 300 362
AU 1800 300 362
E advice@ema.co.nz
ema.co.nz

Cases

ADVICELINE UPDATE: To assist members the AdviceLine are currently extending their services to include Saturday. Saturday hours are 9am – 5pm.

Employment Relations Authority: Five Cases

Liability of holiday pay transferred to other entity

Mr Downie claimed to be owed his accumulated holiday pay when he left the employment of Woodleys Contracting Limited (WC) in January 2014. It was argued that it was transferred as a liability to another company, Blake Downie Contracting Limited (BDC). Mr Downie claimed that at the time he was an equal 50 percent shareholder alongside a Woodley Family Trust.

Mr Downie's application to the Employment Relations Authority (the Authority) was lodged on 8 August 2019 claiming that WC had failed to pay his accumulated holiday pay upon his departure from employment and had failed, upon request, to provide holiday and leave records. Mr Downie sought payment of his accumulated holiday pay in an amount of $16,425.46 as a remedy.

WC filed a statement in reply and Mr Woodley, a Director of WC, contended that the holiday pay was not owed as it had been "*transferred*" as a liability to BDC.

Mr Downie commenced employment with WC in 1997. Mr Downie was a Contracting Operations Manager with a salary of $90,000 as recorded in an unsigned individual employment agreement (IEA) with 1 December 2007 as the commencement date. The validity of the IEA was not disputed by either party, but Mr Downie could not recall why he had not signed it.

Mr Woodley described their employment relationship as cordial and that Mr Downie was considered a trusted friend who worked long hours in a busy role and did not utilise his full leave entitlement. In 2008, Mr Woodley resolved to establish Mr Downie in a separate business entity (BDC) that Mr Woodley retained 50 percent shareholding of and gifted Mr Downie the remaining shares. Mr Downie then spent increasingly more time on BDC's affairs to establish and grow the business.

Mr Woodley suggested it was understood that Mr Downie's salary was cross-subsidised by WC but no documentation was made available to the Authority to establish what the split was and whether Mr Downie's IEA with WC had been varied to reflect such an arrangement. Mr Downie did acknowledge that initially WC and BDC were administered as one (including payroll services) and that some invoicing from BDC reflected this. This appeared to be an informal arrangement that was not surprising given the interlocking ownership structure.

In January 2014 Mr Downie resigned from WC to concentrate fully on BDC. This move was mutually agreed. Mr Woodley maintained a 50 percent share in BDC and an interest in seeing the company develop.

Whilst no documentation or evidence was provided to support this agreement, the holiday pay owed to Mr Downie was simply transferred as a liability to BDC's accounts. Mr Downie gave evidence that he raised this issue informally to which Mr Woodley agreed to sort it with his payroll administrator.

This matter remained unresolved until 28 July 2016 when BDC's accountant received a call from WC's payroll administrator wanting assistance with the calculation for Mr Downie's accumulated holiday pay. No evidence was given as to why this had not been raised or resolved by either party until this date. Mr Woodley could not determine a calculation for holiday pay. Though agreeing that Mr Downie was owed this, he simply stated that the liability had been transferred to BDC, despite no evidence given as to the calculation that was transferred.

An employer must as all times keep holiday and leave records as per the Holidays Act 2003 (the Act). The Authority found that whilst WC appeared to have kept records, it was unclear whether all the requirements under the Act were met as such were not disclosed. The email from the payroll administrator demonstrated compliance with the requirement that annual leave be recorded. The Authority found that WC wilfully and deliberately breached an obligation to disclose the holidays and leave record upon a request made under the Act. There was no reason for non-compliance. Mr Woodley stated that he ignored the email until being directed to mediation by the Authority. This was compounded by WC not providing Mr Downie or the Authority with the full holidays and leave record.

Though the Authority found WC to have breached their obligation to keep and disclose on request Mr Downie's holiday and leave record, no penalty was sought by Mr Downie and therefore no penalty could be considered.

The Authority stated that had there been an agreement to transfer holiday pay owed from WC to BDC, then such agreement should have been recorded in writing and signed by both parties after the employee was given the opportunity to seek advice on the impact of it. The Authority found no basis for assertion that simply transferring the holiday pay owed as an accounting exercise to BDC as a liability absolved WC's legal obligation to pay out the monetary value of holiday pay owed.

No different figure of holiday pay was provided, therefore the Authority agreed with the figure originally claimed and ordered WC to pay $16,425.46 to Mr Downie. Costs were reserved.

Downie v Woodley Contracting Limited [[2020] NZERA 122; 17/03/2020; D Beck]

Improvement Notice not complied with

A Labour Inspector claimed that Chait & Bish Hospitality Limited (CBH) failed to comply with an Improvement Notice and sought an order for CBH to comply with the Improvement Notice. The Labour Inspector also sought a penalty for failing to comply.

CBH was a limited liability company which operated an Indian takeaway and café. CBH was still on the Companies Office Register, then being known as International Education Consultancy Services Limited. CBH came to the attention of the Labour Inspector following an anonymous complaint from a member of the public on 21 September 2017. The Labour Inspector then commenced a proactive investigation to carry out an audit of the company to determine whether it was complying with minimum employment standards.

Three Labour Inspectors visited the address where CBH was trading on 19 December 2017. The Labour Inspector provided a written request for records under section 229 of the Employment Relations Act 2000 (the ERA) and section 82 of the Holidays Act 2003 (the HA). A Labour Inspector followed up on the written notice by sending an email to CBH on 20 December 2017. The email requested that CBH complete an attached list of employees form and return it to the Labour Inspectorate by 5:00pm 5 January 2018. An email with a list of employees was sent on 5 January 2018. The list showed five employees including both directors of CBH, one current employee and two former employees.

The Labour Inspector emailed back on 17 January 2018 with a further written request for records for three selected employees under section 229 of the ERA and s 82 of the HA by 5:00pm on 25 January 2018. CBH and the Labour Inspector had email communications between 7 February 2018 and 19 February 2018 in relation to

the requested records. CBH stated that they would provide the requested information the next day, 27 February 2018. The Labour Inspector documented the phone call with CBH on 26 February 2018.

The Labour Inspector emailed CBH on 28 February 2018 stating that the requested records had not been received and that the Labour Inspector intended to proceed with action in the Employment Relations Authority (the Authority). The Labour Inspector sent an email to CBH on 5 March 2018 with an attached investigation report and an opportunity for CBH to respond, which it did not.

After a phone discussion on 17 August 2018 with CBH, the Labour Inspector sent an email outlining the discussion and asked CBH to provide the requested records by 24 August 2018. CBH provided the requested records on 24 August 2018 and 12 September 2018. The Labour Inspector's investigation included a review of the employment agreements, wage and time records and holiday and leave records provided for three named employees. A copy of the outcome was outlined in a further investigation report which was emailed to CBH on 23 October 2018 with an opportunity to respond by 7 November 2018.

CBH did not respond and the Labour Inspector proceeded with enforcement action and served an Improvement Notice which was served on 13 December 2018 to CBH. The due date for compliance was 5:00pm 21 January 2019. The Labour Inspector emailed CBH on 31 January 2019, 21 February 2019, 6 March 2019 and 14 March 2019 advising that the compliance date had passed and provided further opportunity for CBH to comply. CBH failed to respond or comply. The Improvement Notice issued on 13 December 2018 set out the steps CBH needed to take to comply with minimum legal requirements.

The Authority found that the Labour Inspector had engaged fully with CBH and had reasonable grounds to believe that CBH had failed to comply with minimum legal requirements.

Failure to comply with an Improvement Notice is a single breach of the ERA which has a maximum penalty of $20,000. The Authority found that the breach was intentional. The Authority found that there was a benefit to CBH for not paying its employees in accordance with minimum legal requirements. No evidence of contrition or remorse or to take any responsibility to meet statutory minimum employment requirements for its employees was given.

CBH was ordered to pay a penalty of $12,600, costs of $1,125 and a filing fee of $71.56.

A Labour Inspector of the Ministry of Business Innovation and Employment v Chait & Bish Hospitality Limited [[2020] NZERA 120; 16/03/2020; E Robinson]

Intimidating and aggressive performance management approach was a disadvantage to employee

HST commenced work as a law graduate with KAG, a law firm specialising in family law and legal aid services, in May 2017. HST's first role with KAG was an administrative role involving case management. This role changed because of restructuring in 2017. HST was moved into a legal team at the end of October 2017 as a lawyer. KAG paid for a practicing certificate from 10 November 2017. In January 2018 HST became a certified legal aid provider.

HST suffered with anxiety and stress during work from July 2017 which affected her work performance. HST was unhappy with how KAG managed her struggles and raised a personal grievance on 1 August 2018 and subsequently resigned on 23 August 2018. HST raised claims in the Employment Relations Authority (the Authority) for constructive dismissal, unjustified action causing disadvantage, discrimination, breach of contract and breach of the duty of good faith. HST alleged that KAG managed her by engaging in an aggressive and hostile performance management process, it then failed to respond to her concerns when raised, becoming more aggressive and hostile leaving her the only option to resign.

HST was diagnosed at university with mild anxiety and received support in dealing with her condition. By graduation, HST had few, if any, ongoing issues. HST met with the manager of KAG to obtain feedback on her unsuccessful application and interview. HST discussed her anxiety with him, advising him that she had issues previously but nothing ongoing at that time. HST was offered an internship and then commenced employment once that finished. Over the space of six months with KAG, HST's role changed several times during a period that was already busy and stressful. From July 2017 HST experienced physical symptoms such as vomiting and

diarrhoea. HST took time off work in August 2017 and saw a psychologist who expressed concerns HST was under too much pressure at work. HST remained sick though into October 2017 and was treated by her doctor and psychologist. Late October 2017 HST was diagnosed with abnormal depression and was given appropriate medication.

By January 2018 KAG was aware that HST had been diagnosed with abnormal depression, manifesting in stress and anxiety with physical symptoms. The Authority noted it important that HST's claim was not based on anxiety and stress. HST did not raise a personal grievance at that time and the grievance she did raise was based on how her work was managed by KAG. HST was working for MKL, the principle solicitor, who had concerns and set them out in an email on 20 February 2018. There were several meetings and various letters or emails that set out concerns and expectations as well as responses and summaries through until June 2018. MKL reduced HST's workload and budget expectations until she was satisfied that HST was able to cope.

The Authority was satisfied that MKL's process was a fair and sound approach regarding work issues and accommodated medical issues. Part of the problem with some of the expectations from KAG was that MKL and HST had different views on how much support HST would need. HST raised two situations where she had to attend to a client unsupervised and felt underprepared. MKL however, thought it had done sufficient work with HST to prepare her. HST had found the formal process intimidating which was difficult for MKL as there was a need to be formal to provide clarity and direction for any performance failings. There were several issues raised with HST from other managers and the CEO without involvement of MKL. This meant that though HST was receiving support from MKL the demands from issues cut into time off work given and workload reduction to support. There were blunt and threatening emails sent from KAG which contrasted with the holistic approach MKL was taking in light of HST's medical issues. The interventions from other KAG management were problematic. The disconnect between the approach by MKL and KAG management with HST continued.

The CEO had a meeting with HST to discuss her performance being below those of other junior lawyers. This meeting conflicted with MKL managing HST's workload and performance. The CEO was critical of her performance and billing when MKL removed work from HST to help her cope with anxiety and to provide her with more time to understand her role. This criticism, not regarding MKL's management with HST's workload, was found to be inexplicable by the Authority. HST was sent a letter a week later by MKL appearing to have finalised the formal performance management.

HST raised a personal grievance on 1 August 2018 after repeatedly receiving intimidating and aggressive emails from KAG management. HST thought this was an overwhelming approach, leaving her feeling unsupported and professionally isolated. These concerns were not resolved and in her resignation letter dated 23 August 2018 HST highlighted her initial complaint regarding the various management approaches by multiple managers. The letter went on to say KAG had failed to properly investigate the grievance and had only become more aggressive and had made returning to work untenable.

HST was successful in her disadvantage claim and all HST's other claims were dismissed. The Authority was not satisfied that KAG's overall management of HST was not what a fair and reasonable employer could have done in all the circumstances. The Authority found that KAG's aggressive and intimidating performance management of HST caused a disadvantage to her employment.

KAG was ordered to pay $14,000 in compensation. Costs were reserved.

HST v KAG [[2020] NZERA 33; 28/01/2020; P van Keulen]

Permanent non-publication order granted

The Employment Relations Authority (the Authority) declined the applicant's application for interim reinstatement pending investigation and determination of his substantive personal grievance claim of unjustifiable suspension from employment.

The applicant had resigned and withdrew his employment relationship problem in the Authority. As such, the Authority did not investigate or determine the applicant's substantive personal grievance claim.

An interim non-publication order was issued by the Authority until further order of the Authority. Both parties in this case consented to request the Authority to make the interim non-publication order permanent.

The Authority has the discretion to grant non-publication orders under clause 10(1) of the Second Schedule of the Employment Relations Act 2000 (the Act) which states that the "*Authority may, in respect of any matter, order that all or any part of any evidence given or pleadings filed or the name of any party or witness or other person not be published, and any such order may be subject to such conditions as the Authority thinks fit*."

This discretion must be exercised on a principled basis. The principle applied when considering an application is that justice should be administered openly. The Employment Court has recognised that every case would be very fact specific and that the employment institutions had to weigh and assess all the competing factors carefully and in a principled manner.

The Authority was satisfied on the facts of this case that is was necessary and appropriate to exercise its discretion to issue a permanent non-publication order in similar terms to the interim non-publication order.

The Authority factored in that its interim determination did not determine the merits of the applicant's personal grievance claim, the evidence before the Authority was in affidavit form and untested. Furthermore, the respondent's investigation into the complaints about the applicant which led to his suspension did not reach an outcome.

The applicant had established an impressive reputation throughout his career and had an unblemished employment record. The complainant and the respondent would have also been adversely affected if a non-publication order was not issued.

The Authority exercised its discretion and made a permanent non-publication order prohibiting the publication of names and identifying features of the parties to the proceedings and the complainant.

P v Q [[2020] NZERA 157; 17/04/2020; A Fitzgibbon]

Independent contracting relationship imposed

Mr Grant was employed by Maelstrom Design Limited (MD) for six years until he was provided with a letter on 28 December 2018 which declared his position to be "*disestablished*". Mr Grant was subsequently offered ongoing employment as an independent contractor – an arrangement that was unilaterally imposed by the respondent's director, Mr Turner. Mr Grant left his employment on 8 February 2019 and raised a personal grievance on 11 February 2019 alleging that he had been unjustifiably dismissed as no written notice of his employment terminating had been given.

The respondent filed a statement in reply but did not provide evidence and did not participate in the investigation meeting. Prior to the hearing the company was in the process of liquidation. Mr Grant's counsel gained permission from the liquidator to proceed, but the liquidator declined to appear.

Mr Grant regularly worked 40-45 hours per week with occasional weekend work up until the end of 2018. Mr Grant described the business as being busy and he was unaware of any declining orders. Mr Grant took four weeks annual leave and recalled sometime after returning in late August, a general staff meeting being convened by Mr Turner. This was said to be a very unusual occurrence. Mr Grant recalled eight to nine employees being present and that Mr Turner in a short address explained in general terms that "*things needed to change*" or he would be "*looking at redundancies*". Mr Grant described no discussion of anything specific, but that he was surprised by the discussion as no concerns were ever expressed by Mr Turner.

In October 2018, Mr Turner had asked Mr Grant for a "*chat*" in his office and they discussed the production being down whilst Mr Grant was on leave and Mr Turner said that there would be redundancies if production did not pick up. Mr Grant recalled feeling unfairly targeted and explained that his absence may have been the cause of a temporary slump in production. No suggestions on how production could be increased were mentioned but that Mr Turner had taken out a loan to cover overheads. Mr Grant denied a suggestion that he was planning on leaving employment in three months' time and that he had briefed co-workers about this.

No further discussions on production were made between October and December 2018 and Mr Grant thought production seemed to be carrying as normal. Mr Grant described some significant unease when Mr Turner was not specific about when employees would return from their annual Christmas/New Year closedown. Mr Turner had suggested he would be in contact with staff when he needed them to return.

Mr Grant received an email on 28 December 2018 that indicated a restructure was necessary, that two permanent positions were to be disestablished and to attend a meeting on 31 December for Mr Turner to discuss the restructure and that Mr Grant was welcome to bring a support person.

In the meeting, no mention was made of when he would have to leave or any detailed discussion of the reasons for the redundancy. Little discussion as to why he was chosen to go and when he was to go was had. Mr Grant stated that afterwards he had felt confused as to whether his employment was actually ending as no discussion of who would take on his role ensued. Mr Grant waited in hope that Mr Turner would realise that he was the only person that could operate and program the CNC machine on an ongoing basis and change his mind.

Mr Grant was asked on 10 January 2019 by Mr Turner whether he would like to be an independent contractor at a higher hourly rate. Mr Grant recalled saying he would think about it and get back to him. On 7 February 2019 Mr Grant found his weekly pay was $220 and not his normal $770. Mr Grant approached Mr Turner who said he was now an independent contractor and the $220 was his accrued holiday pay owed. Mr Turner claimed that four weeks' notice was given on 28 December 2018 though no evidence was provided.

The Employment Relations Authority (the Authority) found that even if the restructure and subsequent redundancy was genuine and procedurally fair, the respondent did not finalise such by issuing notice of termination in writing which was required as per the individual employment agreement.

The employment relationship ended with Mr Turner's unilateral imposition of an independent contracting relationship by ceasing to pay wages and instead paying out holiday pay on 7 February 2019. This was found to be a dismissal in an unjustified manner. Mr Grant promptly lodged a personal grievance to which Mr Turner took no steps to rectify and instead reiterated that any ongoing engagement of Mr Grant would be as an independent contractor.

The restructure process was manifestly flawed with no prior consultation or sharing of relevant information and the applicant was provided with no real opportunity to comment on the decision with no selection criteria being provided or redeployment alternatives discussed. These procedural defects were not minor and the respondent thus failed to meet the obligations in the Employment Relations Act 2000 (the Act).

The unilateral decision to impose an independent contracting arrangement during a flawed and incomplete redundancy process ended the employment relationship in a manner that did not fall within the parameters of what a notional, fair and reasonable employer could have done in all the circumstances at the time. The Authority found this to be an unjustified dismissal.

The respondent was ordered to pay Mr Grant seven weeks' lost wages. This number was lesser than three months, but reflected the actual loss in the intervening period of three weeks between his employment ending and new employment commencing, but included the four weeks' contractual notice not paid in lieu and the $900 that Mr Grant was paid short in his last week of employment.

Mr Grant described a loss of sleep, anger and confusion and an impact on his relationship with is partner, as they were trying to conceive their first child and they had the financial stress of only one income earner servicing a mortgage and other outgoings. Mr Grant also described a loss of confidence in his abilities as Mr Turner continued trading under a different name manufacturing the same products. The Authority was convinced that at the time Mr Grant suffered humiliation, loss of dignity and injury to feelings.

MD was ordered to pay Mr Grant $8,740 gross in lost wages, $12,000 pursuant to section 123(1)(c)(i) of the Act and $2,250 for costs.

Grant v Maelstrom Design Limited [[2020] NZERA 121; 16/03/2020; D Beck]

For further information about the issues raised in this week's cases, please refer to the following resources:

Restructuring and Redundancy

Stress and Fatigue

Annual Holidays

Performance Management

Employer News

COVID-19 and diver safety

This safety alert highlights the serious health and safety risks posed for occupational divers if they have been exposed to coronavirus COVID-19.

What has happened?

In the last few months we have seen the global spread of COVID-19.

Though many people may not be affected, those that are can range from being asymptomatic (showing no symptoms) to suffering from severe respiratory responses. Incidents of respiratory distress have resulted in some people showing possible longer term damage to their lungs.

This increases the potential for serious harm to divers and highlights the importance of establishing safe medical standards for those who may have been infected with COVID-19.

What we know

A respiratory injury can cause serious harm to a diver.

Occupational divers have to pass annual medical assessments to be deemed to be medically fit.

Though there has been no formal study into the effects of COVID-19 on occupational divers, general clinical observations indicate that COVID-19:

- transmits easily from person to person
- a person may be asymptomatic but still test positive
- may not present symptoms for 10-14 days
- often shows symptoms similar to influenza
- can include serious respiratory disease such as chronic lung disease or moderate to severe asthma.

Our advice

Anyone with respiratory symptoms should not dive, and should arrange for COVID-19 testing. If testing is negative, they should see their GP for further advice and appropriate treatment for their symptoms.

If someone has tested positive for COVID-19 they must not dive even if they are asymptomatic.

Following clearance from the public health service any diver who has tested positive to COVID-19 should:

- seek a full diving medical from a Designated Diving Doctor, including a full respiratory assessment

- send this assessment and a completed medical questionnaire identifying COVID-19 recovery, to theDiving Hyperbaric Medicine Service (DHMS) for review by a hyperbaric medical specialist.

Diving should not commence until a new Diving Medical Clearance has been issued by the DHMS.

Any diver who has come into close contact with someone who has tested positive for COVID-19 should not dive. They should also contact the public health service for further advice. No diving should be undertaken until after any isolation period has passed and the diver has sought advice from the DHMS.

Further information

Our occupational diving guidance

list of designated diving doctors

Diving Hyberbaric Medicine Service (DHMS)

Acknowledgement

This safety alert has been developed in consultation with Diving Industry Advisory Group hyperbaric medical specialists.

For more information and to get to their COVID-19 diver safety PDF click the link below.

WorkSafe [2 June 2020]

Wetlands and waterways gain from 1BT funding

The Government will invest $10 million from the One Billion Trees Fund for large-scale planting to provide jobs in communities and improve the environment, Agriculture Minister Damien O'Connor and Forestry Minister Shane Jones have announced.

New, more flexible funding criteria for applications will help up to 10 catchment groups plant landscapes at a whole of catchment scale, enabling them to achieve the greatest environmental outcomes.

"The funding changes are designed to increase planting and improve waterways. They are a practical example of how this Government is listening to and working with people to support them in their desire to make environmental and freshwater improvements," Shane Jones said.

"Importantly, as we look to support those affected by the economic fallout from COVID-19, these large-scale planting and restoration initiatives will also provide employment in their communities and support the plant nursery sector."

Catchment groups will also be able to apply for funding for associated costs such as land preparation, labour and pest control.

The revised funding criteria has been expanded to include suitable plants such as grasses and shrubs, and planting of areas of less than 1ha, to support planting along waterways and in wetlands.

The funding is in addition to the up to $100m from the Provincial Growth Fund Shane Jones announced recently for waterway fencing, riparian planting and stock water reticulation.

Alongside this work, the Ministry of Primary Industries is also working with a wide range of catchment groups around New Zealand to support their work to lift freshwater quality and farming practice, Damien O'Connor said.

"We have a goal to reach up to 2200 farmers over the next three years.

"Catchment groups provide wonderful opportunities for famers to support and learn from each other. They also provide an avenue for collaborative, grass-roots action to resolve local issues, including improving sustainability and improving water quality.

"MPI's extension work is funded through the $229m Productive and Sustainable Land Use package announced in Budget 2019, which includes more than $35m for on-the-ground support via extension services.

"So far, through this package, we have supported a group of 1000 Southland farmers and growers through funding the Thriving Southland project and 300 King Country farmers through funding to King Country River Care. More are in the pipeline, we're looking to support a further six catchment and community groups through extension projects in the coming weeks.

"Together, the One Billion Trees Fund and the Productive and Sustainable Land Use package work together to achieve the environmental goals the Coalition Government has set", Damien O'Connor said.

The purpose of the One Billion Trees Fund is to provide support and incentives for tree establishment in partnership with landowners and communities.

The programme aims to ensure that the right tree is planted in the right place for the right purpose.

The Government is backing a new $27 million project aimed at boosting sustainable horticulture production and New Zealand's COVID-19 recovery efforts, says Agriculture Minister Damien O'Connor.

New Zealand Government [31 May 2020]

Legislation

Note: Bills go through several stages before becoming an Act of Parliament: Introduction; First reading; Referral to select committee; Select committee report, Consideration of report; Committee stage; Second reading; Third reading; and Royal assent.

Bills open for submissions: Four Bills

Four Bills are currently open for public submissions to select committees.

Veterans' Support Amendment Bill (No 2) (16 June 2020)

Child Support Amendment Bill (24 June 2020)

Inquiry into the operation of the COVID-19 Public Health Response Act 2020 (28 June 2020)

Overseas Investment Amendment Bill (No 3) (31 August 2020)

Overviews of bills - and advice on how to make a select committee submission - available at: https://www.parliament.nz/en/pb/sc/make-a-submission/

Full text of bills available at: http://www.parliament.nz/en-nz/pb/legislation/bills

The Employer Bulletin is a weekly update on employment relations news and recently published legal decisions. It is EMA's policy to summarise cases that contain legal issues relevant to employers. The purpose of the Employer Bulletin is to provide and to promote best practice in employment relations. If you would like to provide feedback about the Employer Bulletin, contact advice@ema.co.nz