

IS BEING LATE FOR WORK GROUNDS FOR DISMISSAL?

One of the challenges that many small businesses face is dealing with employees who are repeatedly or habitually late for work, extend their lunch break or find ways to leave early. Frequently, employers are reluctant to take any action against such employees for fear of complaints being made alleging bullying or unfair dismissal.

The Fair work Commission in *Rooney v Pickles Auctions* [2016] FWC 858 (9 February 2016) recently determined that provided that an employer acts in a measured and considered manner and followed the correct processes, habitual lateness was a justified grounds for immediate dismissal.

In this case, the employer had kept a careful record of the employee's incidences of lateness over the previous six months including issuing a number of verbal and written warnings.

On the day of the dismissal, the employee was asked why he had arrived for work late, and was advised that his job was at risk. The employer then consulted with other management personnel, and reviewed the employee's explanations for being late, his work history, along with the previous verbal and written warnings he had received.

After considering these issues, the employee was advised that his employment was being terminated effective immediately.

The employee subsequently commenced unfair dismissal proceedings alleging other than his lateness there was no problem with his work, and it was unfair to terminate his employment on that basis. His application was dismissed with the Commission describing the employer's handling of the matter as being "commendable"

The key to the employer's success in this matter was the careful and considered way that the employer dealt with this issue. If you are having issues with employee lateness we can work with you to develop an appropriate strategy that will help you to address the issue and avoid any claims for unfair dismissal.



Important: Clients should not act solely on the basis of the material contained in this update. Items herein are general comments only and do not constitute or convey advice per se. Also changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. Therefore it should be regarded as confidential and not be made available to any person without our prior approval.