

Sacking Via SMS - Not Such a Simple Option

Employers need to think twice before sacking employees via SMS text message as the recent case of Sedina Sokolovic illustrates...

The Facts & Decision

On Boxing Day of 2010 retail worker Sedina Sokolovic was sacked by her employer, Modestie Boutique, via SMS text message after she had swapped her shift without allegedly informing management. As a result, Sokolovic commenced an unfair dismissal case against her employer through Fair Work Australia.

On 30 May 2011, Fair Work Australia decided that Sokolovic's sacking was harsh, unjust and unreasonable and awarded her \$9,992.00 in compensation. Most notable in Commissioner Ian Cambridge's decision is his comment that 'if dismissal is implemented by any means other than face-to-face communication...it is likely to face strong and successful challenge'.

The reason for that, as some lawyers have commented, is that taking disciplinary action against an employee, such as dismissal and the like, via SMS text message in effect hampers that employees right to procedural fairness. This is because, amongst other things, it takes away the employees opportunity to:

1. discuss the issue with the employer in person;
2. seek adequate reasons for the detrimental action; and
3. potentially come to a fair and reasonable solution of the matter.

Indeed, as described by Commissioner Ian Cambridge, termination by text is 'pretty appalling' and displays a 'lack of courage'.

The Moral of the Story

Although, there are cases where sacking via SMS may be acceptable, such as in cases of serious misconduct, violence or breach of workplace safety, employers must always exercise extreme caution when deciding to sack an employee via SMS, particularly in circumstances where it is not exceptionally warranted.

The key point for employers to remember is that they have a fundamental responsibility to guarantee procedural fairness to their employees, especially in situations of disciplinary action. SMS sacking does not achieve this.

We are here to assist employers ensure that they act in accordance with the law when it comes to their dismissal policies and procedures. If you require any assistance please contact us.

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