

Sexual harassment can justify summary termination

Two recent decisions, at both state and federal levels, reconfirm that sexual harassment can be a just basis for summary termination of employment.

State Decision

The Industrial Relations Commission of NSW recently found (*Meggatt v Australian Business Limited* [2007] NSW IRC 182) that sexual harassment justified the summary termination of an employee's employment.

Facts:

- The applicant "groped" a colleague at a work function.
- The employee had been previously warned about inappropriate conduct of a sexual nature.
- The Commission said that such conduct constituted serious misconduct

The Commission said that misconduct can warrant summary termination if it affects working relationships and/or the trust required between an employer and employee.

Federal Decision

The Australian Industrial Relations Commission recently found (*Bagtas v Sydney Ferries Corporation* [2007] AIRC 693) that an employee's misconduct provided a valid reason for the summary termination of the applicant's employment.

Facts:

- The dismissed employee (the applicant) was a supervisor on Sydney Ferries.
- The applicant's misconduct included showing a female colleague a photo of his penis and touching her on the bottom.
- The Commission found that this conduct was "patently unacceptable" even though the employee was not provided with the relevant policies.
- The conduct was even more inappropriate given the applicant's supervisory role.

Accordingly, the Commission found that there was a valid reason for the summary termination of the applicant's employment.

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