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EMPLOYMENT DISPUTES - THE EMPLOYERS PERSPECTIVE

With all disputes there is always two sides to every story. With employment disputes an Employer often has very valid grounds on which to take an Employee to task over.

Jim runs a web based business and had an office with 10 staff and another 4 that worked partially in the office and partially in his warehouse. One of his Employees, Peter was regularly abusive towards other staff members and Jim had received two complaints of sexual harassment from two office staff members.

When these incidents had been brought to his attention Jim called Peter into his office and tore a strip off him and gave him a verbal warning.

A week later he received two further complaints from staff for the same behaviour from Peter.

Jim called Peter into his office again tore another strip off him and sacked him on the spot.

Peter went to an Employment Advocate and commenced a personal grievance against Jim.

His claim was successful in the Employment Relations Authority because Jim failed to follow what is termed "due process".

The Employment Relations Authority made a comment that Peter was the author of his own misfortune but Jim had failed to follow proper processes in dealing with the complaints. This included a failure to give Peter adequate notice of the meeting and a failure to provide him with the opportunity to bring a support person and or a legal advisor and to properly investigate the complaints and failed to properly put those complaints to Peter in order to hear his side of the story.

This is an all too common occurrence with Employers who deal with these types of incidents in the heat of the moment and whilst they may have grounds for doing so they

have overlooked the due process the law insists they provide to every Employee.

The starting point for Jim should have been his Employment Contract with Peter

It is therefore important that your starting document is written well. Too many Employers use google to find samples and put them together like a jigsaw puzzle. This is not good practice.

Once Jim had identified an issue to take up with Peter he should have read the Employment Contract in order to ascertain if the behaviour is specifically addressed in the Agreement and how the Agreement addressed personal grievances and disputes.

It is important that he follow the Contract (so long as it is a well written contract).

Even then it is recommended that he take advice before commencing any process that could be termed a disciplinary process with an Employee.

There are too many cases that come before the Employment Relations Authority and the Employment Court where an Employer has a valid grievance to take up with an Employee but find themselves in a position where the Employee has succeeded in a personal grievance against them solely on the basis that the Employer failed to follow the correct procedure in dealing with the dispute.

Do not fall into this trap.

If you are unsure of the process you are supposed to follow please take advice.

20 MINUTE FREE

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