FWC Bulletin

8 December 2023 Volume 12/23 with selected Decision Summaries for the month ending Thursday, 30 November 2023.

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Zombie agreements have now sunsetted

07 Dec 2023

Certain agreements made before 2010 that were still in operation (zombie agreements) have now terminated (sunsetted) unless an application was made to the Fair Work Commission before Thursday 7 December 2023 to extend its operation.

If you were covered by a zombie agreement

It is important to find out what legal minimum pay and conditions now apply.

They may be set by a modern award, or by an enterprise agreement that covers the employer and employee (if there's one in place).

- Find out which modern award would apply using the Fair Work Ombudsman's Find my award tool.
- Learn about how to make a new enterprise agreement on our website.

If you have an extension application still pending

If you made an application for an extension before Thursday 7 December 2023 that has not been decided, the Commission must still decide the application.

If the Commission decides to refuse the extension, the Commission must extend the default period until the later of:

- the end of the day of the refusal decision, or
- such later day specified in the refusal decision (that is not more than 14 days after the day the refusal decision is made).

Updates to our Document Search coming soon

We will soon be updating our Document Search so that pre-2010 agreements that no longer operate can be clearly identified.

This change impacts more than 100,000 documents. We expect that users will find the search function to be slower than usual while we implement this update. We know this will cause frustration for our users and we will do what we can to limit the impact.

New conciliation and conference technology

09 Nov 2023

We implemented new technology for staff led conciliations and conferences in unfair dismissal and general protections dismissal matters. Utilising the Microsoft Teams platform, the new technology provides parties with a more user-friendly experience:

- Parties can now join the conciliation or conference by clicking the link in the invitation we send them rather than waiting for a call from the conciliator.
- During shuttle negotiations our staff conciliators will no longer disconnect parties from the call and instead can place them in private virtual rooms where they can talk to their representatives.

We have updated our website information and Preparing for conciliation online learning module to assist parties in navigating the technology. You can read our Implementing new conciliation and conference technology article to learn more.

Disputes about fixed term contracts from 6 December 2023

13 Nov 2023

From 6 December 2023, new limits on the use of fixed term contracts are in place. For employees other than casuals, this includes:

- **Maximum 2-year contract period** — A fixed term contract can't be for a period of more than 2 years, including renewals and extensions.
- **No more than 2 consecutive contracts** — In certain circumstances, an employee can't have more than 2 consecutive contracts for the same or similar work.

If an employee and employer are in dispute about a fixed term contract, and the issue can't be resolved at the workplace, the Commission may be able to deal with the dispute. This includes by mediation, conciliation or consent arbitration.

Find out more about disputes about fixed term contracts.

Withdrawal of amalgamation of the Mining and Energy Union from the CFMMEU from 1 December 2023

01 Dec 2023

The Mining and Energy Union (MEU) has withdrawn from its amalgamation with the Construction, Forestry, Maritime, Mining and Energy Union (CFMMEU). The Mining and Energy Union is a new registered organisation under the *Fair Work (Registered Organisations) Act 2009*. The certificate of registration was signed on 1 December 2023.

The General Manager of the Fair Work Commission is required to send a written statement to each affected member of the new organisation advising that they are now a member of the MEU.

Emails, SMS messages and hard copy letters are being sent to affected members. Any members who have clicked on a link in an email or a text message and were brought to this article can be assured that it was a genuine communication from the Fair Work Commission advising them of this change, as required by the Registered Organisations Act.

The CFMMEU's name has now changed to the Construction, Forestry and Maritime Employees Union and will revert to using its original acronym of CFMEU.

Members of the MEU can access information about their union, including its rules, on the Mining and Energy Union (MEU) page on our website.

Historic lodgments from the former Mining and Energy Division, including rule changes, annual returns, disclosure statements, elections and financial reports, can be found on the Construction, Forestry and Maritime Employees Union (CFMEU) page on our website.

Members of the CFMEU can continue to access these documents about their union from the same page, as well as an updated copy of the CFMEU's rulebook.

Decisions of the Fair Work Commission

The summaries of decisions contained in this Bulletin are not a substitute for the published reasons for the Commission's decisions nor are they to be used in any later consideration of the Commission's reasons.

Summaries of selected decisions signed and filed during the month ending Thursday, 30 November 2023.

1 ENTERPRISE AGREEMENTS – genuinely agree – ss.185, 186, 188, 604 Fair Work Act 2009 – appeal – Full Bench – matter concerns enterprise agreement negotiated by NTEU (appellant), CPSU (second respondent), and Southern Cross University (first respondent) – immediately prior and throughout voting period, first respondent sent various communications to employees advising that casual employees will receive sign-on payment of $750 if the agreement is endorsed by majority of staff – Agreement was endorsed by majority, and first respondent applied to Commission to approve enterprise agreement in first instance – second respondent supported agreement while appellant opposed, and Commission held hearing in March 2023 – appellant submitted at first instance that first respondent's communications were misleading, particularly for casual employees, and as such agreement was not genuinely agreed to by employees – presiding Member rejected appellant's submissions and approved agreement in September 2023 – appellant filed appeal with presiding Member – Full Bench granted permission to appeal on basis that agreement was not approved in accordance with requirements of FW Act, and case raises questions about proper application of ss.186(2)(a), 188 of FW Act in circumstances where material misrepresentation occurred impacting voting intention for agreement – appellant submitted that presiding Member erred at first instance in finding communications were not misleading, in applying the wrong test to reach decision, in not providing adequate reasons to reach decision, and in finding that even if communications were misleading the agreement would still have been genuinely agreed to by employees – Full Bench found first respondent's communications were misleading in stating that sign-on bonus was payable upon endorsement of Agreement by staff whereas Agreement provided bonus is payable upon approval by the Commission – Full Bench added that as a gap in time necessarily occurs between the making of agreement and approval, cohort of persons employed at time agreement is made is not likely to be identical to cohort of persons employed when agreement is approved – first respondent submitted some representations were erroneous but occurred in context of earlier accurate representations made by first respondent – Full Bench rejected this submission finding earlier accurate representations do not cure issues of later misrepresentations, and misrepresentations could not reasonably be understood as qualified by language of earlier accurate representations – Full Bench considered whether effect of misrepresentations mean that agreement was not genuinely agreed – Full Bench found that correct test is whether the evidence, considered objectively as a whole, leads to the conclusion that misrepresentation could reasonably be expected to have effect of deceiving employees into voting for something which, if they had known true position, they would not have voted for [*Appeal by Australian, Municipal, Administrative, Clerical and*

Services Union] – Full Bench found that evidence was not substantively considered at first instance, and added evidence collectively constituted proper basis for supposing that misleading statements may have materially affected ballot outcome – Full Bench determined that agreement was not genuinely agreed to by employees, and found presiding Member erred at first instance in stating that agreement was genuinely agreed to even if representations were misleading – Full Bench did not consider appellant's other grounds of appeal regarding eligibility of casual employees to vote and whether agreement passes BOOT – Full Bench concluded that decision to approve Agreement was made in error as voting period was infected by misrepresentation which called into question whether Agreement was genuinely agreed to by majority of voters – Full Bench rejected first respondent's submission that error can be corrected by providing undertaking to pay bonus – appeal allowed – Full Bench quashed presiding Member's decision in approving Agreement – application to approve Agreement dismissed.

Appeal by National Tertiary Education Industry Union against decisions of Ryan C of 18 August 2023 and 23 August 2023 [[2023] FWC 2077] and [[2023] FWCA 2691] Re: Southern Cross University

C2023/5323 [2023] FWCFB 200
Catanzariti VP Sydney 31 October 2023
Anderson DP
Roberts DP

2 TERMINATION OF EMPLOYMENT – misconduct – social media – ss.394, 400, 604 Fair Work Act 2009 – .appellant lodged an appeal against decision of presiding Member – presiding Member held that respondent had been unfairly dismissed in relation to posts made in a private social media forum – presiding Member held there was valid reason for dismissal for two of the posts respondent made – presiding Member found respondent's dismissal was harsh, unjust and unreasonable – presiding Member found appellant had misunderstood the evidence and had relied upon inaccurate information when dismissing the respondent – reinstatement of employment ordered – Presiding Member also ordered the appellant to backpay the respondent to the date of his dismissal – Commission's powers on appeal are only exercisable if there is an error on the part of the presiding Member [*Coal and Allied*] – it must appear that some error has been made by presiding Member in exercising their discretion as the decision-maker [*House*] – Full Bench noted that permission to appeal must only be granted where it is in the public interest to do so – permission to appeal granted – Full Bench held that appeal raises issues of importance and general application regarding whether out of hours conduct on social media consensually engaged in by group of employees is sufficiently connected to employment, constitutes as a valid reason for dismissal – appellant's notice to appeal noted that presiding Member acted on the wrong principle and failed to consider the 'entire factual matrix' – appellant submitted that the presiding Member's failure to properly consider factual material in its entirety constituted an error – appellant also contended that the presiding Member was influenced by criticisms of the appellant's disciplinary process which lead to dismissal – appellant further submitted alleged errors of fact made by presiding Member in relation to assessing any other relevant matters in relation to whether the dismissal was harsh, unjust or unreasonable – appellant also submitted presiding Member's

findings were contrary to an overwhelming weight of evidence- respondent contended presiding Member properly identified authorities and test to be applied in determining whether conduct had a sufficient connection with employment to warrant disciplinary action – respondent also asserted differential or inconsistent treatment of employees in comparable cases may have relevance in determining whether dismissal was unfair – respondent further contended presiding Member properly understood and assessed respondent's conduct – respondent also submitted that presiding Member's role was to determine whether social media posts had the requisite nexus to respondent's employment in regards to whether a valid reason for dismissal existed – respondent also claimed presiding Member's findings of respondent having no control over which other employees viewed posts was uncontroversial – Full Bench dismissed the appellant's submission that presiding Member had not had sufficient regard to all of the relevant facts – Full Bench held that there were errors in the decision making of the appellant's employee's decision to terminate the respondent – Full Bench noted that there was differential treatment between the respondent and another employee who was not terminated for engaging in similar conduct Full Bench found that there were no significant errors of fact by the Presiding Member regarding the findings that the appellant had posted pornographic videos – Full Bench found the presiding Member had not erred in finding the respondent no control over when other members of the group saw the videos – Full Bench held that sharing of offensive materials in a private Facebook group between employees of the same employer is not a sufficient basis to find a connection to employment – Full Bench held that posts did not constitute a valid reason for dismissal – Full Bench affirmed presiding Member's decision – appeal dismissed.

Appeal by Ventia Australia P/L against decision of Riordan C of 18 April 2023 [[2023] FWC 907] Re: Pelly

C2023/2498 [2023] FWCFB 201
Asbury VP Brisbane 1 November 2023
O'Neill DP
Bissett C

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3 CONDITIONS OF EMPLOYMENT – hours of work – flexible work arrangements – jurisdictional requirements – s.65B Fair Work Act 2009 – applicant seeking order under s.65C requiring respondent grant flexible working arrangements due to disability – applicant commenced employment with respondent, a retailer and franchisor of electrical and furniture products, on 23 May 2022 – prior to written request for flexible working arrangements, applicant had engaged in verbal conversation with manager and respondent's HR manager to change working hours – reasons for this request understood to have been applicant's difficulty in waking up in the morning, lack of available work early Saturday morning, and difficulties in arranging transport to work on Monday morning – applicant gave evidence that change in working hours was recommended by her doctor to aid in relief of insomnia and anxiety – written request for flexible working hours made on 5 April 2023 – request made reference to doctor's recommendations but no reference of a 'disability' – applicant was informed verbally that request was denied on 30 August 2023 – Full Bench considered jurisdictional requirements of s.65 for dealing with a dispute about refusal of request for flexible working arrangements – first requirement requires that circumstance justifying flexible

work request apply presently to employee – second requires 'nexus' between request for change and relevant circumstance – third requirement, in s.65(2), requires that employee has worked a minimum period of 12 months continuous service – fourth, request for flexible work arrangements must be in writing – fifth, request must set out details of and reasons for change sought – further requirement identified arising under item 64 of Schedule 1 to the Act; that request is made on or after 6 June 2023 – Full Bench considered circumstances of applicant's request – applicant's request made after roughly 11 months of employment with respondent – applicant had requested in writing change in working arrangements but did not identify in writing the reasons for the request – request made prior to 6 June 2023 – later follow-up by applicant for request on 14 August 2023 not considered a request under s.65(1), but a request for a discussion about the 5 April 2023 request – application not validly made under s.65B(3), therefore no jurisdiction for Full Bench to arbitrate the dispute – being the first matter of its type to be considered by Full Bench, difficulty also noted regarding satisfaction that applicant's disability would meet requirements of s.65(1) – considered that the word 'disability' should be given its ordinary meaning [*Hodkinson*] – material before Full Bench indicated that applicant believed she suffered from a disability, having citing a GP mental health plan but not a formal diagnosis of anxiety – distinguished between anxiety as a disability and as a 'normal emotional reaction to stress' [*RailPro Services*] – letter from GP dated 9 September 2023 similarly did not offer formal diagnosis, nor did it identify applicant's identity as limiting – application dismissed in any case due to lack of Commission's jurisdiction to arbitrate request.

Quirke v BSR Australia Ltd

C2023/5287 | Sydney | [2023] FWCFB 209
Hatcher P | 10 November 2023
Asbury VP
Durham C

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4 TERMINATION OF EMPLOYMENT – misconduct – theft – ss.394, 387 Fair Work Act 2009 – applicant employed as casual Customer Service Attendant at licensed club – applicant dismissed after not paying for a drink, and alleged dishonesty stemming from that incident – yearly audit at club showed that a significant amount of alcoholic beverages were missing – staff presented with discrepancy at a meeting on 18 April 2023 – staff warned that consuming food or beverages without a receipt would be considered theft and dealt with in accordance with staff policy – applicant consumed two paid drinks and one unpaid drink with other staff after meeting – applicant had also consumed alcohol prior to meeting – club considered meeting to be a period of work within which alcohol consumption therefore prohibited – club also alleged that applicant engaged in misconduct by consuming alcohol prior to paid meeting – theft and fraud allegations and show cause notice put to applicant – show cause meeting held on 1 May 2023 – emerged in meeting that unpaid drink was given to applicant by another staff member – applicant told to choose between resignation and termination – applicant reviewed CCTV footage of incident that appeared to contradict the club's claims – applicant advised club she would not resign – applicant's employment terminated – considered whether dismissal harsh, unjust or unreasonable – Deputy President satisfied that unpaid

drink incident took place – applicant submitted that she never asked for free drink and believed it was paid for – noted that club sought critical information on incident after making decision to terminate applicant – found that inaccurate allegation regarding incident was put to applicant at 1 May 2023 meeting – found that CCTV footage did not establish applicant intentionally took a drink without paying, and that applicant was not dishonest with regards to incident at 1 May 2023 meeting – found that meeting on 18 April 2023 did not constitute a paid period of work as applicant was only paid for one hour, meeting ran for two hours – applicant therefore did not engage in misconduct by drinking alcohol before meeting – found significant issues with procedure including incorrect claims on critical details, seeking evidence after determining applicant should be terminated and not sharing such evidence with applicant – letter dated 28 April 2023 found to have used intimidatory language such as 'fraud' and 'theft' – Deputy President considered it unconscionable to use such legally specific language in context of young worker – distinguished less severe conduct of applicant from that of other club employees who resigned after consuming unpaid beverages – other requirements for unfair dismissal satisfied – satisfied that applicant unfairly dismissed, and suffered financial loss as a result of dismissal – compensation to be determined at a later hearing.

Giblin v Coogee Legion Ex-Service Club Ltd

U2023/4600 [2023] FWC 2785
Wright DP Sydney 24 October 2023

Other Fair Work Commission decisions of note

Appeal by Williams against decision of Boyce DP of 14 April 2023 [[2023] FWC 881] re KTC Refrigeration & Air Conditioning P/L

TERMINATION OF EMPLOYMENT – genuine redundancy – ss.389, 394, 604 Fair Work Act 2009 (Cth) – appeal – Full Bench – at first instance, Commission found that applicant's dismissal was a genuine redundancy under s.389 FW Act – jurisdiction objection dismissed – applicant sought permission to appeal Commission's decision – during the hearing, appellant sought to tender evidence of, among other things, allegations of fraud on the part of the respondent – Full Bench noted that when considering to admit new evidence, it must be established that the evidence could not have been obtained or adduced with reasonable diligence in the first instance, be of such a high degree of probative value and must be credible [*Atkins*] – Full Bench refused leave for appellant to admit new evidence based on the likelihood of the evidence being obtained and adduced with reasonable diligence at the first instance – appellant's grounds for appeal included alleged errors of law, jurisdictional error and failure to afford procedural fairness and fair hearing – Full Bench must grant permission to appeal if there is an error on the part of the primary decision maker and if it is the public interest to do so – public interest might be attracted in circumstances where the decision in the first instance manifests an injustice [*GlaxoSmithKline*] – appellant alleged that the presiding member showed bias in allowing respondent to be represented by a lawyer and that there was no opportunity to object – Full Bench accepted that although the presiding member's decision to allow representation did not indicate bias, appellant had been denied procedural fairness and this was significant – observed that conducting respondent's jurisdictional objection by telephone instead of video was one cause of events resulting in appellant being denied procedural fairness – upheld appeal ground relating to procedural fairness – appellant alleged presiding member erred in finding appellant did not provide evidence for redeployment – Full Bench observed that alleged errors of fact were errors in presiding member's approach to considering onus

and evidentiary onus – upheld appeal ground on the basis that presiding member's approach to the question of which party carried evidentiary burden was inconsistent with Full Bench authorities and constituted failure to properly exercise jurisdiction as required by s.389 – appellant alleged bias in presiding member's findings regarding respondent's cash flow – Full Bench observed that error related to presiding member's approach to determining genuine redundancy – Full Bench observed that presiding member's erroneous approach to the question of evidentiary burden in s.389(2) affected consideration of matters in s.389(1) – upheld appeal ground on the basis that conclusions in relation to matters in s.389(1) were unsound – Full Bench held that presiding member's approach caused injustice to appellant – public interest test satisfied – permission to appeal granted – Full Bench upheld appeal on grounds that appellant was denied natural justice in relation to a significant matter and that approach to considering matter in s.389 was erroneous and constituted failure to exercise jurisdiction in manner provided for in FW Act – decision in first instance quashed – application to be remitted for conciliation.

C2023/2515 [2023] FWCFB 194
Asbury VP Brisbane 25 October 2023
Masson DP
Bissett C

Educational Services (Schools) General Staff Award 2020

MODERN AWARDS – variation – s.158 Fair Work Act 2009 – Full Bench – application by IEBA to vary and extend Clause 4 of the General Staff Award (the Award) to broaden coverage to standalone boarding residences/hostels providing boarding accommodation – application to be dealt with by the Expert Panel for the Care and Community Sector – the Unions (AEU, IEU, UWU and ASU) opposed the application – the Unions also queried IEBA's eligibility to make an application to vary the Award – IEBA contended that they were a membership organisation who provides broad-based advocacy – Full Bench satisfied IEBA eligible to make an application per s.158(1) Item 3(b) – IEBA submitted broadening the coverage would 'rope in' student hostels employing boarding supervisors excluded from the Award who conduct similar, if not the same, functions as boarding supervision services in schools – IEBA contended potential employees affected not significant and would allow variability depending on the range of functions conducted – IEBA asserted hostels are recognised by the Australian Government's Department of Social Services, students are funded by ABSTUDY and hostels only operate through the school year – 'Unity College', 'NRL Cowboys House' and 'Torres Strait Kaziw Meta Inc' supported IEBA, suggesting variation would unify student boarding and home-stay services and excluding coverage denies benefits of industry consistency – IEBA submitted s.134(1)(da), (g), (h) are relevant as boarding services are essential for delivery of education, residences/hostels struggle to find appropriate coverage as awards covering hospitality, catering and community and social services are not relevant to providers of student boarding services – the modern awards objective to 'ensure that modern awards, together with the NES, provide a fair and relevant minimum safety net of terms and conditions' determines variation must be 'necessary' and not 'desirable' [*Horticulture Award 2020]*] – Full Bench noted that evidence by IEBA were not extensive, however accepted proposed variation would lessen regulatory burden on hostels – Full Bench highlighted the variation is for a discrete and niche service where other award coverage may not be available – Full Bench accepted access to adjusted annual salary could have positive impacts – Full Bench considered possibility of other classifications of employees incorrectly receiving award coverage and potential issues of coverage for some employees of boarding schools, but not all – Full Bench not satisfied Application was accompanied by probative evidence supporting a 'necessary' achievement of the modern awards objective – Full Bench noted that only a small subset of employer opinions accompanied application – Full Bench also noted that the number of employees who would potentially be impacted by the variation was not known – Application not granted – Full Bench noted IEBA should not be deterred from making a future application with sufficient evidence.

AM2022/28 [2023] FWCFB 138
Clancy DP Melbourne 1 November 2023
Bissett C
Yilmaz C

Application by Winchester

ANTI-BULLYING – bullied at work – unreasonable behaviour – s.789FC Fair Work Act 2009 – application for an FWC order to stop bullying – applicant alleged that First Year College Dean and First Year College Head of Operations (respondents) engaged in repeated unreasonable behaviour – requirement to establish that an individual or group of individuals "repeatedly behaves" unreasonably indicates existence of persistent unreasonable behaviour but may refer to a range of behaviours over a period of time [*Re SB*] – concept of repeated unreasonable behaviour is not to be approached in a manner which divorces it from its purpose outlined in the *Fair Work Act* [*Mac*] – the meaning of the word "unreasonable" can refer to a conclusion applied to a decision which lacks an evident and intelligible justification [*Mac*] – applicant alleged that he was coerced and directed to work hours in excess of the maximum hours identified in the Enterprise Agreement which he is covered by – applicant relied on expert evidence which included a workload estimation tool for academic staff – respondent claimed that a majority of applicant's work was self-directed – Commission observed that expert evidence did not relate to applicant's actual workload – Commission held this allegation was not unreasonable behaviour – applicant alleged that one of the respondents verbally abused applicant in a meeting – respondent submitted that applicant was not verbally abused nor spoken to in an aggressive tone at meeting – colleagues present at meeting stated that no such conducted occurred – Commission held alleged conduct did not occur – applicant also alleged that email exchange between himself and respondents confirming allocation of extra work to him was unreasonable – respondents submitted that email exchange was a misunderstanding in relation to a prior agreement regarding the allocation of extra work to applicant – Commission accepted that email exchange was a misunderstanding and not unreasonable behaviour – applicant further alleged that the allocation of an extra subject to him by respondent was unreasonable – requirement to undertake teaching the extra subject arose in circumstances where a colleague was overseas on unexpected leave and unable to perform duties – Commission held allocation of extra duties to applicant was reasonable in the circumstances – applicant alleged conduct of one of the respondents at a research forum was unreasonable – alleged incident involved one of the respondents refusing to speak to applicant – respondent contended that he was busy and possibly stressed at the time given the importance of the forum – Commission held respondent's conduct at the forum was not unreasonable behaviour in the circumstances – applicant also alleged respondents' decision for applicant to not go on a study tour was unreasonable – respondents requested applicant to provide a medical report – applicant had an extensive medical history which was known to the respondents – applicant provided medical report – respondents alleged that medical report did not address applicant's prior medical history – respondents requested a further medical report from applicant – Commission held direction from respondent was not unreasonable conduct given applicant's medical history – Commission held none of the alleged behaviour were instances of unreasonable behaviour or conduct – applicant not bullied at work – application dismissed.

SO2022/497 [2023] FWC 2829
Gostencnik DP Melbourne 2 November 2023

Hughes v Converge International P/L

TERMINATION OF EMPLOYMENT – high income threshold – modern award coverage – ss.382, 394 Fair Work Act 2009 – jurisdictional objection to unfair dismissal claim – applicant earned above high income threshold at time of dismissal – argued covered by *Health Professionals and Support Services Award 2020* – respondent argued

applicant not protected from unfair dismissal within meaning of s.382 as applicant's earnings placed him above high income threshold – Commission noted both limbs required under s.382 to be met – applicant carried evidentiary onus – provided evidence of duties and responsibilities – respondent submitted alternative evidence, including position descriptions dated February 2023 and July 2020 – Commission applied 'principal purpose test' [*Zheng*] to determine award coverage – Commission relied on direct evidence from parties as 'in determining award coverage it is the duties performed by an employee that are significant, rather than the title of their position' [*Kaufmann*] – position descriptions held not to be contractual documents or record of parties' rights and obligations – customer relationship management found to be 'primary purpose' of applicant's employment – linked to Award classification definitions for Support Services Employee levels 8 and 9 – Commission found applicant covered by Award, despite high income – found applicant provided sufficient evidence as required by s.382 – found applicant protected from unfair dismissal – jurisdictional objection dismissed – applicant's claim to proceed.

U2023/5454 [2023] FWC 2985
Easton DP Sydney 14 November 2023

Matsumoto v Loghic Connect P/L

TERMINATION OF EMPLOYMENT – valid reason – s.394 Fair Work Act 2009 – applicant co-founded the respondent, was a shareholder and one of two directors – co-founder purchased all shares – applicant's employment terminated for alleged serious misconduct – alleged serious misconduct comprised employment payments to applicant's wife when she was not employee of respondent – unfair dismissal application filed – Commission considered whether there was a valid reason for dismissal: s.387(a) – the respondent alleged that payment to the applicant's wife, alleged extortion of respondent and aggressive behaviour in meeting were each a valid reason for dismissal – respondent argued that the payment of annual salary of $90,000 constituted malfeasance as she was not an employee and exposed the company to tax liability – although there was little evidence of how much work she performed, there was sufficient evidence that she did perform some work for the company – evidence also indicated applicant's wife's salary was factored into applicant's overall remuneration package – the arrangement to pay her had been in place long before co-founder purchased remaining shares and was not concealed during due diligence process – Commission found that wife's continued payment did not constitute misconduct as the ongoing arrangement should have been discussed when the co-founder took over the business – Commission not satisfied to requisite standard applicant planned to extort the company [*Brigginshaw*] – Commission also not persuaded allegation of applicant's conduct in a heated meeting constituted a valid reason for dismissal – the applicant was not notified of alleged malfeasance before his employment was terminated (s.387(b)) – the fact that the applicant was not given a proper opportunity to respond to allegations contributed to the Commission's finding (s.387(c)) – Commission concluded that the swift and heavy-handed termination of applicant's employment constituted was unfair and ordered two weeks' pay to the applicant as compensation.

U2023/2690 [2023] FWC 2810
Easton DP Sydney 25 October 2023

Dale v Sunshine Coast Health Network Ltd

TERMINATION OF EMPLOYMENT – contract for specified term – genuine redundancy – ss.119, 386, 394 Fair Work Act 2009 – applicant advised on 19 April 2023 employment would end effective 30 June 2023 – organisation restructure, applicant's position expanding scope required qualifications not previously part of role – applicant sought unfair dismissal remedy – respondent raised jurisdictional objection of no dismissal to application due to maximum term contract – respondent submits employment was not terminated per s.386(1)(a), termination not reason for redundancy, contract ceased at expiry of term – respondent referred to contract

where employment would cease due to effluxion of time unless extended term or new agreement offered by employer's discretion, such scenario did not mean position made redundant – respondent specifically communicated employment would cease at expiry, not reliance on termination clause at their initiative – applicant maintained connection between redundancy and termination satisfied s.386(1)(a), s.119(1)(a) – applicant further contended incoherent and misleading to rely on effluxion of time when it had not yet occurred, therefore deliberate act of respondent to avoid entitlements – applicant also raised termination may be done at initiative of employer even if not done by employer [Mahony] – contract providing time frame and triggering action does not necessarily mean contract ends according to terms if employer takes action to trigger [Alouani] – applicant maintained parties prohibited from conflating redundancy termination date with expiration of contract, hence termination did not occur according to terms – respondent replied time for assessing whether contract entered into for purpose of frustration is time contract was entered into when intention relevant, not 20 months later – held applicant on maximum term contract – contract ended 30 June 2023, not renewed – held contract contemplated 30 June 2023 being end of employment relationship at respondent's discretion – Commission held that, absent a vitiating factor, language which contemplates end of employment relationship will result in employment relationship ending by agreement and not at the initiative of the employer [Navitas] – held genuine contract nominated agreed maximum term date, not contrivance to avoid obligations – jurisdictional objection upheld – application dismissed.

U2023/5941 [2023] FWC 3081
Simpson C Brisbane 23 November 2023

Austin v Sandgate Taphouse P/L

TERMINATION OF EMPLOYMENT – performance – ss. 387, 394 Fair Work Act 2009 – application for unfair dismissal remedy – applicant employed as venue manager in October 2022 – applicant dismissed on 29 June 2023 – dismissal allegedly due to poor performance – Commission considered whether dismissal was harsh, unjust or unreasonable – respondent said applicant was aware of underperformance since December 2022 at which time respondent met with applicant to discuss position expectations – applicant disagreed and said meeting not concerning performance – respondent said they regularly discussed with applicant their underperformance – applicant dismissed alleged performance concerns as unreliable indicators of underperformance – applicant's evidence and overall response did not address alleged conversations held about performance and referred to respondent's testimony as 'statements of opinion' – on 12 June 2023 applicant was asked to rate his performance as a venue manager, and subsequently asked to prepare a 'plan' and to present this upon his return from two weeks' leave – applicant asserted he understood the plan to be an action plan for the venue, not his performance – applicant did not work on the 'plan' due to leave period – respondent asserted the 'plan' was to address areas of concern with performance – Commission noted no evidence respondent emphasised importance of this 'plan' prior to the applicant going on leave – Commission observed applicant lacked ability to take responsibility for any underperformance concerns – applicant recalled that the respondent made a comment implying they were not a good venue manager on 12 June 2023 but the broader conversation not specific to his performance – applicant went on leave after this and returned on 26 June 2023 – applicant alleged he returned to work and was informed of non-specific performance concerns by respondent and respondent suggested applicant should resign – applicant rejected assertions of underperformance in this meeting – respondent said discussion on 26 June 2023 was informal – applicant claimed he was terminated verbally in meeting on 29 June 2023 – respondent advised he formally met with applicant to discuss the 'plan' but the applicant's responses did not satisfy the performance concerns and as such the applicant was terminated – Commission considered whether there was a valid reason for dismissal – 'a reason will be "related to the capacity" of the employee where the reason is associated or connected with the ability of the employee to do his or her job' [*Crozier*] – an employee's explanations being, largely general, evasive and involving blame shifting in response to performance concerns may be viewed as a lack of understanding on the

employee's part [*Serco*] – despite no formal performance management process, Commission observed applicant appeared wilfully blind to performance concerns within his control – Commission accepted respondent's submission that errors, which were repeatedly raised, were not corrected – held that there was a valid reason for dismissal – Commission satisfied applicant notified of the issues that led to his termination due to the multitude of conversations that occurred after finding the respondent a more credible witness than the applicant – Commission found applicant would have been aware of dissatisfaction with his performance on 12 June 2023 – applicant afforded opportunity to address this dissatisfaction with the 'plan' despite the request for this plan being unclear and a period of leave following meeting – Commission found applicant afforded two opportunities to address performance concerns on 12 June 2023 and 26 June 2023 – Commission noted no formal process was in place nor were any formal warnings received which weighs in favour of applicant – despite issues with process, applicant still provided with procedural fairness – Commission held that applicant's entire employment marked by poor performance – Commission also held that applicant unlikely to have satisfied respondent regardless of any failing in the respondent's process – held that dismissal was not harsh, unjust, unreasonable – application dismissed.

U2023/6319 [2023] FWC 3084
Simpson C Brisbane 23 November 2023

Kaya v Team Global Express P/L and Ors

ANTI-BULLYING – likely to continue – s.789FC Fair Work Act 2009 – application for an order to stop bullying – applicant submitted that he would continue to be at risk of bullying – employer objected on basis there was no longer risk of bullying – Commission observed order requires a finding that worker has been bullied at work and there is risk worker will continue to be bullied at work – where no risk worker will continue to be bullied then application can't succeed – Commission considered whether risk of future bullying – employee found by company to be bullying applicant no longer employed – Commission also considered whether employer had put in place changes designed to reduce the risk of bullying [*Ms LP*] – other employees accused of bullying had been warned by employer, relocated to different work area and directed by company not to engage with the applicant – Commission affirmed anti-bullying jurisdiction operates prospectively to stop bulling and not designed to punish past behaviour or compensate victims of such behaviour [*Re McInnes*] – Commission held that the resignation of the employee found by the employer to be bullying applicant combined with employer initiatives sufficient to satisfy Commission there wasn't risk of future bullying – application dismissed.

SO2022/278 [2023] FWC 2685
Lee C Melbourne 24 October 2023

Gregory v Maxxia P/L

CONDITIONS OF EMPLOYMENT – hours of work – flexible work arrangements – s.65B Fair Work Act 2009 – application for Commission to deal with a dispute under s.65B concerning a request for a flexible work arrangement with his employer – applicant's contract of employment required him to attend respondent's premises to perform work – respondent had a working arrangement policy requiring employees to work at least 40% of their hours at the respondent's premises – applicant requested to work 100% of his hours from home – Commission considered discernible requirements for a request for a flexible working arrangement to be satisfied [*Quirke*] – applicant met the legislative requirement of at least 12 months service as a non-casual employee prior to making the request – first limb of applicant's application was that he argued he a suffered medical condition that required him to go the toilet with urgency and more frequently than usual – only medical evidence submitted was letters from a doctor at an online medical provider – contended that this meant he must work from home full time – Commission considered whether the medical condition was covered by s.65(1A)(c) which requires the employee to have a disability – applicant's

condition could not be described as a disability in the normal context of the word and medical evidence provided did not establish that applicant had a disability – therefore did not trigger any of the other provisions for any order to be made – second limb of applicant's application was his intention to negotiate with the mother of his child for parental care of one week out of two – in the event of an agreement reached, applicant sought to work all hours from home and have flexibility to collect the child from school at the appropriate time – no dispute that applicant was a parent of a school aged child for according to s.65(1A)(a) – however, the nexus between the request and circumstance would only be triggered when arrangement was agreed and would have been only for the period where the applicant had custody of the child – respondent offered to allow applicant to work from home in the weeks that he was the primary care giver of his child and was prepared to provide flexibility to collect the child from school – also provided applicant the reason for why he would have been required to work in the office at least 40% of the time he was not caring for the child as being the company had certain commitments and high expectations in the delivery of providing services to a client – Commission accepted that face to face presence would have allowed for observation, interaction and coaching to improve his productivity and provide him with greater support – Commission also accepted that applicant's knowledge and experience could be more easily accessed by less experienced team members – Commission found that the respondent's reasons for refusing request in respect of applicant's child care were based on reasonable business grounds – application dismissed.

C2023/5280 [2023] FWC 2768
Platt C Adelaide 16 November 2023

Health Services Union v Mercy Hospitals Victoria Ltd

ENTERPRISE AGREEMENTS – dispute about matter arising under agreement – jurisdiction – s.739 Fair Work Act 2009 – applicant raised a dispute regarding clause 29.3 of the *Health and Allied Services, Managers and Administrative Workers (Victorian Public Sector) (Single Interest Employers) Enterprise Agreement 2021-2025* (the Agreement) – dispute related to the proper interpretation of the clause and whether respondent is required to make a penalty payment to certain employees due to delay in paying nauseous work and educational incentive allowances – Commission considered whether each delayed payment was an 'underpayment' and, if so, whether respondent would be required to make a penalty payment and if so, how it would be calculated – effective commence date of agreement 20 April 2022 – the Agreement provided for back pay of certain allowances from 1 July 2021 – applicant argued that the respondent failed to pay allowances on the days the entitlements fell due, constituting an 'underpayment' – applicant also argued respondent did not correct it in the requisite time period, and that for each day allowances went unpaid, penalty of 20% of the underpayment should be incurred and paid to the employee who had been underpaid – respondent raised jurisdictional objection and argued applicant was not a proper party to the dispute – respondent further contended clause 29.3(a) provides preconditional steps for determining whether they were obliged to pay penalty for underpayments, submits in the alternative the conditions of 29.3(c) were met so that there was no failure to act that would trigger penalty payments – respondent further argued that if penalty was required, it should have been calculated per annum – agreed facts were that allowances were payable to employees on dates ranging from 1 December 2021 to 31 March 2022 – respondent paid the allowances to eligible employees in the period of 24 August 2022 to 31 August 2022 – disputed terms of an agreement must be construed objectively to determine if they have a plain meaning – Commission found that the ordinary meaning of the word 'underpayment' would include unpaid allowances owed by the respondent – respondent argued that applicant could not make the application as they were not a party to the agreement and the employees themselves must make an application – however, Commission found the applicant is a party to the dispute and the plain words of the Agreement support that assertion – the Agreement explicitly stated that applicant is covered – Commission did not accept that clause 29.3(a) constitutes preconditional steps for penalty as it merely stated an employee's right to request

correction of payment – clause 29.3(c) required steps to be taken to correct underpayment within 24 hours – Commission accepted that respondent took steps by sending a reply email to the applicant on 5 May 2022 – Commission held email to applicant commenced a course of action which was intended to correct the underpayment – Commission determined that the allowances were underpayments under the Agreement – however, Commission also held respondent is not required to make a penalty payment.

C2022/6450 [2023] FWC 683
Mirabella C Melbourne 3 November 2023

Faau v Canopy Tree P/L

TERMINATION OF EMPLOYMENT – Small Business Fair Dismissal Code – Misconduct – ss.387, 394 Fair Work Act 2009 – applicant alleged unfair dismissal by respondent, a small arboriculture business – after 14 months of employment, applicant was dismissed via a letter on 17 May 2023 – reasons for termination included unauthorised use of company fuel card, "implication" in the theft of a director's wallet from a truck owned by the respondent on 7 March 2023, leaving a worksite on 8 May 2023 without notice, and "deliberately deceiving the workers compensation insurer" in regards to the time he left the worksite on 8 May 2023 – at time of dismissal, applicant was not working and had filed a workers' compensation claim – Commission considered whether dismissal consistent with Small Business Fair Dismissal Code (the Code) – as applicant was dismissed summarily, the Code requires that respondent genuinely held a belief, on reasonable grounds, that applicant's conduct was sufficiently serious to justify immediate dismissal – Commission noted that dismissal came after applicant left worksite following injury on 8 May 2023 and allegedly gave false information to insurer – Commission considered whether previous incidents constituted reason for dismissal – applicant was given a second chance after unauthorised use of fuel cards – evidence did not firmly establish that applicant had stolen director's wallet on 7 March 2023 – reason for dismissal therefore taken to be applicant's conduct leaving worksite on 8 May 2023, and subsequently reporting false information to insurer – Commission not satisfied that respondent held belief on reasonable grounds as they did not make enquiries of applicant regarding incident – decision of respondent to dismiss influenced by previous incidents involving applicant – Commission not satisfied that the Code complied with, jurisdictional objection dismissed – Commission considered whether dismissal harsh, unjust or unreasonable – considered whether valid reason for dismissal relating to applicant's capacity or conduct – applicant submitted that a reference to theft of director's wallet was made before final incident, applicant left worksite upset as a consequence – due to emotional state of applicant following this comment, Commission found it unlikely that applicant had set out to intentionally deceive insurer – poor communication of applicant's emotional state not enough to establish a 'sound, defensible or well founded' reason for dismissal [*Selvachandran*] – Commission found no valid reason for dismissal – applicant unfairly dismissed – reinstatement not appropriate – applicant did not find another job until 11 September 2023 – payment of compensation appropriate – compensation reduced by 30% due to unauthorised use of fuel cards 8 months prior to dismissal – respondent ordered to pay $14,857.36 gross less taxation to applicant within 30 days of decision.

U2023/4669 [2023] FWC 2926
Matheson C Sydney 8 November 2023

Stace v Complete Office Supplies/Complete Office Staffing P/L

TERMINATION OF EMPLOYMENT – termination at initiative of employer – ss.385, 386, 394 Fair Work Act 2009 – applicant claimed respondent unfairly dismissed her and sought compensation – respondent claimed applicant was not dismissed and had repudiated her employment – applicant worked as an account manager – position required her to regularly conduct face to face customer meetings – applicant declined to get a COVID vaccination – applicant stood down in February 2022 – while stood

down applicant was terminated in July 2022 – Commissioner considered respondent's objection regarding repudiation – Commissioner noted that a person is terminated if the employer has dismissed their employee or the employer has engaged in constructive dismissal per s.386(1) – respondent claimed applicant repudiated contract by refusing to get a COVID-19 vaccination – respondent claimed applicant could not do her job of attending the respondent's offices or visiting client's work sites because she was not vaccinated – respondent gave applicant one week's notice to get vaccinated – respondent terminated applicant one month later – applicant submitted there was no repudiation because she was willing and able to perform her duties – Commissioner held applicant had not repudiated her employment – noted respondent initiated process, set vaccination parameters and made conclusion regarding applicant's employment – held respondent dismissed applicant – respondent also submitted it had valid reason to dismiss as applicant had failed to comply with a reasonable direction – respondent cited *Coopers Brewery Ltd* decision to support their claim – respondent contended it had employees at a high risk of COVID-19 and clients who had vaccine-related site access requirements – applicant submitted State government had significantly relaxed its public health mandates prior to her termination – applicant submitted a list of clients who did not have vaccine requirements where she could enter their worksites – Commissioner found that applicant's job required her to spend minimal time in the respondent's offices – Commissioner placed greater weight on the clients' vaccination policies – Commissioner inclined to conclude that the respondent had a valid reason to terminate the applicant based on her non-compliance with respondent's vaccination policy – however, Commissioner unable to reach that conclusion as respondent provided insufficient evidence to justify applicant's dismissal – Commissioner found that clients may have relaxed their vaccine policies in response to State government's mandate changes – found it was not clear what site access information supported respondent's decision to terminate at time of termination – held respondent's decision to terminate as applicant *may* have been restricted from accessing client sites was not defensible – Commissioner concluded no valid reason for dismissal – Commissioner also held per s.387(h) – first that the applicant was an older, skilled and experienced professional in her field – applicant would face difficulty finding employment – greater risk of detriment – Commissioner held respondent's termination at that particular point in time was harsh and unreasonable – Commissioner held applicant was unfairly dismissed per s.385 – directions for hearing on remedy to be issued.

U2022/8856 [2023] FWC 2758
Schneider C Perth 23 October 2023

Casey v Mildura & District Pest Management P/L

TERMINATION OF EMPLOYMENT – small business employer – jurisdictional objection – ss.385, 387, 394 Fair Work Act 2009 – applicant employed by respondent, a pest control business with 9 employees – applicant had entered into an argument with respondent staff concerning decision to not stand down another employee that had returned a positive drug and alcohol test – applicant indicated intention to resign and was told by respondent manager to return to workplace with written resignation – applicant returned with written resignation and again began arguing with respondent manager – respondent manager called police, concerned by applicant's behaviour and refusal to leave workplace – applicant alleged to have been aggressive, abusive and threatening in both meetings – applicant left workplace and met with respondent owner, tendering his resignation – after owner was informed of applicant's behaviour the following day, applicant was advised of termination in writing – applicant alleged that in second meeting, respondent manager was uncooperative and physical towards applicant – applicant had previously been counselled for poor workplace performance, poor behaviour, treatment of other staff members – respondent contended that dismissal adhered to the Small Business Fair Dismissal Code (the Code) – whether respondent had complied with the Code when dismissing applicant – there must be a consideration of whether, at the time of dismissal, the employer held a belief that the employee's conduct was sufficiently serious to justify immediate dismissal and

whether that belief was based on reasonable grounds [*Pinawin*] – in determining whether there are 'reasonable grounds' for dismissal, the employer must hold the belief that as a matter of fact that the conduct was by the employee, was serious and justified immediate dismissal [*Can Do International*] – respondent contended that they acted in response to legal advice stating applicant's conduct amounted to a sufficient reason to terminate applicant in accordance with the Code – Commission observed that whilst it may have been reasonable to call the police to the premises, there was no reasonable grounds to report violence – Commission held that respondent failed to comply with the Code – jurisdictional objection dismissed – Commission considered whether dismissal was harsh, unjust or unreasonable – whether respondent had a valid reason to dismiss based on applicant's capacity or conduct – applicant submitted that he visited respondent's staff office to express dissatisfaction and query as to why his co-worker had been treated differently – applicant further submitted that the respondent staff had initiated the physical contact – respondent submitted that applicant had previously been counselled for performance and disrespectful and aggressive behaviour – respondent further contended that the police were called due to legitimate safety concerns – reason for dismissal should be "sound, defensible, or well founded" and not "capricious, fanciful, spiteful or prejudiced" [*Selvachandran*] – where a dismissal relates to conduct, Commission must be satisfied that the conduct occurred and justified termination [*Edwards*] – Commission observed that there was no evidence of applicant having a history of violence or aggressive behaviour in the workplace or otherwise – Commission also noted that there was no material to indicate that respondent staff had reasonable concerns of applicant threatening violence at the time of incident – Commission held that there was no valid reason to dismiss applicant – whether applicant was notified of reason of dismissal – applicant submitted that at no stage dis respondent advise him that he was being dismissed without notice – respondent contended that applicant was provided with reasons within the termination letter itself – notification of valid reason must be given to an employee before a decision to terminate is made in explicit, plain and clear terms [*Previsic*] – termination letter provided to applicant after applicant had sought to resign from employment – Commission held that applicant was not notified of a valid reason for dismissal of employment – applicant not provided with an opportunity to respond – no discussion in relation to dismissal prior to termination of employment – whether applicant had been warned about unsatisfactory performance relating to conduct prior to dismissal – respondent submitted that applicant had prior verbal and written warnings – prior warnings did not consider termination of employment – Commission not satisfied that relevant unsatisfactory work performance prior to dismissal was a contributing factor – applicant's dismissal found to have been harsh, unjust and unreasonable – reinstatement of applicant not appropriate – Commission satisfied that applicant incurred financial loss following dismissal, compensation appropriate – amount of compensation reduced as applicant's conduct found to have contributed to decision to dismiss applicant – applicant awarded $1,025.00 gross in compensation.

U2023/6198 [2023] FWC 2415
Connolly C Melbourne 27 October 2023

Lee v Origin Energy

TERMINATION OF EMPLOYMENT – incapacity – inherent requirements – s.394 Fair Work Act 2009 – application for unfair dismissal remedy – applicant employed from 22 February 2021 as a sales consultant – began personal leave on 6 April 2021 claiming incapacity to work - lodged workers compensation claim on 22 April 2021 alleging that bullying by coworker had exacerbated pre-existing anxiety and depression - absent from work receiving workers compensation payments from 22 April 2021 until date of termination – respondent submitted they made attempts to ascertain applicant's condition, prognosis and fitness to participate in investigation of bullying claim in order to begin investigation – applicant did not provide any information – coworker accused of bullying resigned before investigation could begin – on 31 March 2023 respondent directed applicant to attend an independent medical examination (IME) on 24 April 2023 – applicant sent medical certificate on 24 April

2023 stating incapacity to attend IME – on 11 May 2023 respondent directed applicant to confirm preparedness and availability to attend an IME in next 2 months – applicant did not respond – on 16 May 2023 respondent directed applicant to attend meeting on 17 May 2023 and provided 'show cause' letter regarding compliance with 'lawful and reasonable' directions – applicant did not attend meeting – on 17 May 2023 respondent terminated applicant's employment – Commission considered whether there was valid reason for dismissal – applicant claimed dismissal was retaliation for making bullying complaint in 2021 – respondent submitted dismissal was to due applicant failing to comply with multiple lawful and reasonable directions and his inability to fulfil inherent requirements of role to date and for foreseeable future – Commission found there was no credible evidence to support applicant's claim of retaliation – satisfied applicant failed to comply with multiple lawful directions – satisfied applicant's failure to respond at all to directions breached an express term in his contract – satisfied respondent's directions were lawful and reasonable – satisfied applicant was notified of reason for dismissal – satisfied applicant was given ample opportunity to respond to allegations concerning his failure to comply with lawful and reasonable directions - considered evidence of applicant's medical condition in the proceeding and satisfied it did not make dismissal harsh – Commission found there was valid reason for dismissal – found dismissal was not harsh, unjust or unreasonable - application dismissed.

U2023/4315		[2023] FWC 2906
Perica C	Melbourne	3 November 2023

Zhang v Ky Plaster and Building Supplies P/L

TERMINATION OF EMPLOYMENT – termination at initiative of employer – constructive dismissal – s.365, 386 Fair Work Act 2009 – respondent raised jurisdictional objection that applicant resigned not dismissed for purposes of s.365 – applicant resigned immediately after being threatened by associate of respondent at worksite – applicant argued incident caused 'emotional agitation and irrational decisions' – applicant further argued safety concerns led to decision – respondent submitted resignation genuine and not forced – Commission noted both limbs of s.386 have distinct application – upheld resignation in 'heat of the moment' not legally effective – lack of cool-off period important factor as absence of clarification or confirmation 'after a reasonable time […] may be characterised as a termination of the employment at the initiative of the employer' [*Tavassoli*] – Commission observed applicant's decision to resign was contributed by incident with the associate of the respondent – Commission also observed applicant had no intention of retracting resignation – acceptance of resignation by respondent considered unreasonable in circumstance – Commission found applicant dismissed under s.386(1)(a) – while applicant took reasonable steps to leave dangerous situation, respondent did make effort to retain applicant – additionally alternative work arrangements to address safety concerns not considered – applicant found not dismissed under s.386(1)(b) – s.365 threshold met – jurisdictional objection dismissed – application to progress to conciliation.

C2023/4010		[2023] FWC 3069
Allison C	Melbourne	24 November 2023

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Websites of Interest

Department of Employment and Workplace Relations - https://www.dewr.gov.au/workplace-relations-australia - provides general information about the Department and its Ministers, including their media releases.

AUSTLII - www.austlii.edu.au/ - a legal site including legislation, treaties and decisions of courts and tribunals.

Australian Government - enables search of all federal government websites - www.australia.gov.au/.

Federal Register of Legislation - www.legislation.gov.au/ - legislative repository containing Commonwealth primary legislation as well as other ancillary documents and information, and the Federal Register of Legislative Instruments (formerly ComLaw).

Fair Work Act 2009 - www.legislation.gov.au/Series/C2009A00028.

Fair Work (Registered Organisations) Act 2009 - www.legislation.gov.au/Series/C2004A03679.

Fair Work Commission - www.fwc.gov.au/ - includes hearing lists, rules, forms, major decisions, termination of employment information and student information.

Fair Work Ombudsman - www.fairwork.gov.au/ - provides information and advice to help you understand your workplace rights and responsibilities (including pay and conditions) in the national workplace relations system.

Federal Circuit and Family Court of Australia - https://www.fcfcoa.gov.au/.

Federal Court of Australia - www.fedcourt.gov.au/.

High Court of Australia - www.hcourt.gov.au/.

Industrial Relations Commission of New South Wales - www.irc.justice.nsw.gov.au/.

Industrial Relations Victoria - www.vic.gov.au/industrial-relations-victoria.

International Labour Organization - www.ilo.org/global/lang--en/index.htm - provides technical assistance primarily in the fields of vocational training and vocational rehabilitation, employment policy, labour administration, labour law and industrial relations, working conditions, management development, co-operatives, social security, labour statistics and occupational health and safety.

Queensland Industrial Relations Commission - www.qirc.qld.gov.au/index.htm.

South Australian Employment Tribunal - www.saet.sa.gov.au/.

Tasmanian Industrial Commission - www.tic.tas.gov.au/.

Western Australian Industrial Relations Commission - www.wairc.wa.gov.au/.

Workplace Relations Act 1996 - www.legislation.gov.au/Details/C2009C00075

Fair Work Commission Addresses

Australian Capital Territory
Level 3, 14 Moore Street
Canberra 2600
GPO Box 539
Canberra City 2601
Tel: 1300 799 675
Fax: (02) 6247 9774
Email:
canberra@fwc.gov.au

New South Wales

Sydney
Level 10, Terrace Tower
80 William Street
East Sydney 2011
Tel: 1300 799 675
Fax: (02) 9380 6990
Email:
sydney@fwc.gov.au

Newcastle
Level 3, 237 Wharf Road,
Newcastle, 2300
PO Box 805,
Newcastle, 2300

Northern Territory
10th Floor, Northern Territory House
22 Mitchell Street
Darwin 0800
GPO Box 969
Darwin 0801
Tel: 1300 799 675
Fax: (08) 8936 2820
Email:
darwin@fwc.gov.au

Queensland
Level 14, Central Plaza Two
66 Eagle Street
Brisbane 4000
GPO Box 5713
Brisbane 4001
Tel: 1300 799 675
Fax: (07) 3000 0388
Email:
brisbane@fwc.gov.au

South Australia
Level 6, Riverside Centre
North Terrace
Adelaide 5000
PO Box 8072
Station Arcade 5000
Tel: 1300 799 675
Fax: (08) 8308 9864
Email:
adelaide@fwc.gov.au

Tasmania
1st Floor, Commonwealth Law Courts
39-41 Davey Street
Hobart 7000
GPO Box 1232
Hobart 7001
Tel: 1300 799 675
Fax: (03) 6214 0202
Email:
hobart@fwc.gov.au

Victoria
Level 4, 11 Exhibition Street
Melbourne 3000
PO Box 1994
Melbourne 3001
Tel: 1300 799 675
Fax: (03) 9655 0401
Email:
melbourne@fwc.gov.au

Western Australia
Floor 16,
111 St Georges Terrace
Perth 6000
GPO Box X2206
Perth 6001
Tel: 1300 799 675
Fax: (08) 9481 0904
Email:
perth@fwc.gov.au

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