

### **Resignation or unjustifiable dismissal?**

A [recent decision](#) of the Employment Court covers the difficult subject of resignations during an altercation. The following is [MBIE's summary](#) of the case.

At issue was whether two employees resigned or were unjustifiably dismissed. A sub issue was how much weight should be placed on the failure of an employer to provide a "cooling off" period after an employee resigns in the heat of the moment.

The employees were curtain makers who usually worked together on the employer's factory floor. Their relationship with the sole director of the employer was fractious. One day the director saw one of the employees using her mobile phone during work time. The employee said she accidentally opened an app when checking the time.

The two employees and the director argued for fifteen minutes before the employees said they quit, gathered their belongings, and left the premises. The employer sent the employees dismissal letters early the next morning.

The Employment Court (Court) reviewed case law discussing to what extent employers need to allow employees a "cooling off" period before accepting their resignation. The Court said this involved an objective test (see para 64):

... whether or not an employee has resigned is an objective test as to whether a reasonable employer, with knowledge of the surrounding circumstances, would have reasonably considered the employee to have resigned. Clear words of resignation are likely to clear that bar unless a different understanding can be informed by the surrounding circumstances.

The Court found that the employees resigned. The employees had stated that they quit. They did not make contact until after hours. When they did make contact, they did not indicate an intention to return (see para 70).

The Court then considered whether the employees had been led to resign due to breaches of duty by the employer. It held that the evidence did not support a finding of constructive dismissal (see para 88). In doing so, the Court overturned the finding of the Employment Relations Authority (Authority) and the monetary awards it had ordered (see para 93).

### **Government takes action to future proof supply chain**

A more resilient, productive and lower carbon freight and supply chain sector that will play a pivotal role in growing the economy, and future proof it from further international shocks, is now a step closer, Transport [Minister Michael Wood has announced](#).

The Minister has launched [New Zealand freight & supply chain issues paper](#), the first step in developing a strategy that will optimise the supply chain over the next 30 years.

"Through COVID we saw how major international disruptions to supply chains can disrupt kiwi businesses, limit the availability of key goods and services and increase the price of everyday goods and services. We are taking action to future proof our supply chain, limiting the impact of the next global shock on our businesses across the country.

"The strategy will help tackle the underlying challenges of our freight and supply chains, future proofing the system against climate change, international shocks, population growth and urbanisation, technological advancements, and shifts in international geopolitics and trading patterns," Michael Wood said.

"COVID-19 has also shone a light on supply chain vulnerabilities across the globe and domestically. I commend how quickly the sector, including businesses and government agencies, came together to develop innovative solutions to help alleviate some of the immediate pressures. This strategy takes a longer-term view.

"The supply chain's performance affects every New Zealander. The movement of goods to, from and around our country is essential for our society and economy to function and flourish and impacts our quality of life.

"The supply chain system is very complex, and we need industry and government working together, so we have a high performing freight sector and supply chain into the future.

"The issues paper presents outlines the main issues and opportunities in the coming decades and is based on discussions the Government has had with more than 100 stakeholders from across the supply chain system.

Submissions can be made [here](#) until 3 June 2022.

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