

WE KNOW

# HUMAN RESOURCES

## SUSPENSION FROM EMPLOYMENT

QUICK GUIDE

This Quick Guide provides summarised information about suspension within the context of alleged serious misconduct.

### WHAT IS SUSPENSION?

In general terms an employee has a right to work as well as a right to be paid for it. Suspension means that the employee will not be allowed to come into the workplace and perform their part of the wage/work bargain.

Suspension should never be lightly contemplated. It is a dramatic event in an employment relationship and a great deal of care and attention to process is normally required if personal grievances are to be avoided. In 2005 the Employment Relations Authority dealt with 22 claims alleging unjustified disadvantage following suspension, 16 of which were successful.

It is recommended that in other than exceptional circumstances, suspension only proceed when such action is expressly contemplated under the terms of the relevant employment agreement and only then after consulting the employee with regard to the proposed suspension and considering his/her views as to whether or not suspension should take place and on what terms.

### PURPOSE OF SUSPENSION

Suspension should not be viewed as a punishment but as a tool for the purpose of carrying out a full, fair and thorough investigation of alleged misconduct/serious misconduct and where the circumstances warrant it i.e. where the investigation may be compromised or seriously hindered by the employee's continued presence at work during the investigation.

### PAYMENT

In other than a few exceptional circumstances it is unlikely that suspension without pay will be justified unless the parties have expressly agreed prior to suspension that it will be unpaid or the employment agreement expressly provides for it.

### FAIR PROCESS REQUIRED

Suspicion of misconduct alone will not be sufficient to justify suspension. What is needed is, 'good reason to believe that the employee's continued presence in the workplace will or may give rise to some other significant issue'\*. A desire to allow a 'cooling off' period is unlikely, in itself, to justify a period of indefinite suspension.

Suspension generally requires a fair process to be followed by an employer. As noted above it would be prudent to ensure that any decision to suspend is preceded by a discussion with the employee on the rationale for that course of action and consideration of the employee's views. Although desirable, such a process is not necessarily essential. There may be circumstances where consultation is not practical, for example, where there is imminent danger to the employee or others or an inability to carry out safety-sensitive work.

\* Singh v Sherildee Holdings Ltd t/a New World Opotiki. AC 53/05; 22 September 2005

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For further information regarding Dealing with Serious Misconduct or other aspects of Employment Relations, please contact the Canterbury Employers' Chamber of Commerce, email Keith Woodroof; [keithw@cecc.org.nz](mailto:keithw@cecc.org.nz) or phone 03 366 5096.