



Resignations, Retractions - Heat of the moment

In a recent post about leadership, I made mention of a 'heat of the moment' resignation.

A resignation, if expressed in clear and unconditional terms, terminates a contract of employment. But what should you do when an employee wants to withdraw their resignation. Well it is not straight-forward, and much will depend on the circumstances of the particular case.

Case law over the years, has determined that this can be done when special circumstances exist relating to the context in which the resignation was given. However, caution has to be exercised by the employer if the employee used ambiguous actions or words when offering their resignation or if they did so "in the heat of the moment" as in the recent incident with my client.

So what happened with my client? Over the past months a number of employees with the same line manager had resigned citing bullying by their line manager as the reason. When the manager was consulted about this, they got angry, resigned verbally stating they had been bullied (upward bullying) and hung up the phone. I must add the manager has 10 years plus service and this has been on-going for some time. The manager had made no previous mention of this or raised any grievances in the past.

In some cases an employee may make a decision without being fully informed or they are not in a position to fully evaluate their options, or the employer may act on a misrepresentation of something which is said or done.

If the situation is retrievable, it would be considered unreasonable for the employer to deny the employee the opportunity to withdraw the offer of resignation once the position is made clear.

Where an employee resigns in the heat of the moment using unmistakable words of resignation, there is no onus on the employer to seek to recoup the situation and investigate the employee's due intentions.

However, there may be special circumstances which may indicate to the employer that an employee's resignation, if made in the heat of the moment, may not have been seriously intended by them. In such a case, the employer should allow a reasonable period of time to elapse before accepting the resignation at face value.

Should my client accept the resignation?

In my client's case, the manager in question requested a meeting following their verbal resignation. By not allowing an employee to retract their 'heat of the moment' resignation an employer may be at risk of an unfair dismissal claim.

I advised my client to hold the meeting especially as the manager had made a claim of 'upward bullying'. Whether my client believes this to be true or not, the claims of bullying from both sides need to be investigated.

In my client's case, following the meeting, the employee decided to resign and confirmed this in writing. They did not mention bullying or make any reference to constructive dismissal.

My client accepted the resignation.

It is important to nip any employee issues in the bud before they escalate as was the case here. I am now working closely with this client to ensure incidents are addressed immediately and proper processes are in place to include leadership training and company values.

**HELPING BUSINESS OWNERS WITH ALL THEIR
HR NEEDS**

Email: jo@jt-hrconsultancy.com

Mobile: 07715 026128

