

## How Not to Dismiss an Employee

A recent unjustified dismissal case heard in the Employment Relations Authority demonstrates why it is important to properly investigate allegations before dismissing an employee. Anderson Lloyd Lawyers expert Lesley Brook explains.

On January 14, 2012 Mrs Gore, owner of the Hardware Café, dismissed Mr Pollock for stealing money from the till on January 7.

Unfortunately:

- She didn't check the takings against till receipts to see if any money was actually missing – it wasn't.
- She didn't get written statements from the two staff who reported the matter to her. As a result she misunderstood what they'd told her and misrepresented the situation to Mr Pollock.
- She did not confront Mr Pollock with the allegation until January 14, but expected him to be able to remember one incident on an extremely busy day a week previously.
- She expected Mr Pollock to answer the allegation immediately once she told him about it, so he had no time to try and remember the incident and to arrange to have a representative with him.
- She confronted Mr Pollock at a table in the café, in front of customers and other staff.

In fact Mr Pollock had a reasonable explanation for the incident, but because of the way Mrs Gore conducted the investigation he could not remember it immediately on January 14. On January 18 he explained that he had forgotten to give a customer \$15 change. When he went to the customer's table to apologise, the customer told him to keep the change. Mr Pollock therefore took \$15 out of the till and put it in his pocket as his tip.

Although he was not dishonest, Mr Pollock was unwise to have pocketed the tip without first checking with the manager what the procedure was. His compensation was reduced by \$600 as a result of his contribution to the situation.

Serious allegations may look as if they are straight-forward, as in this case where Mr Pollock had been caught 'red-handed'. But there is sometimes another side to the story; things are not always as they first appear. An employee must be given more than a superficial opportunity to explain in order to ascertain the truth.

It's worth getting right – Mrs Gore's inadequate investigation cost her business over \$10,000 – so let us know if we can help guide you through a disciplinary investigation.

### Contact Us



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