

# People Matters

March 2009

## PD News

Welcome to the last month for Quarter 1. Time flies as they say! In our news, Emma has safely returned from China after her a fabulous trip. She is continuing her study and research in organisational psychologist on her way to becoming accredited. Emma will also complete her McQuaig Interpreter training in May so she can further assist clients in one of our most popular services. Meanwhile, Laura and Shannon are studying their Masters in HR.

In this issue we explore the finer points of redundancy for smaller businesses.

## Redundancy for Small Business

A question that has been asked of us lately is, if you are a business the employs under 15 people, do you need to pay redundancy, even if the award has a redundancy clause?



The answer is, it depends.

In general you are not required to, unless the award has a special clause that gives redundancy payouts for those employers with less than 15 people. If you are under a common law contract you must meet the contractual arrangements as outlined in the contract, otherwise you may be in breach of contract.

There appears to be a high level of confusion in the market place at the moment about redundancy and what constitutes an actual redundancy as opposed to a termination. Redundancy in its truest form is a special type of termination and can be made in the case where the business can prove there is no longer a need for someone to perform those duties. It is important to determine it is a redundancy and not a straight termination based on poor

performance of an individual. "False" redundancies can lead to unfair or unlawful dismissal cases against employers.



If you are making changes to hours, for example cutting down from a 5 day week to 4, make sure you consult with employees and give adequate notice. In effect, this is the same notice you need to give for termination of employment. Some awards may vary, so check the employee's contract for details or contact wage line for assistance.

**Contact either Laura or Shannon for more information 03 9510 3740 for further information.**

## Legal Update

Make sure you are seen to be consistent and fair in your dealings with employees. A recent cases highlight this.

One was a worker who was dismissed for climbing over a guard rail to obtain a sample from a smelter tank. As there was no signage saying this was not allowed, the worker was not given adequate training and there was no written procedure to be followed in such a case, along with the fact the worker had an excellent safety record that spanned 25 years, and that there had been other safety breaches by another senior member of staff without any disciplinary actions undertaken, the decision was considered unfair. The worker was reinstated, however in light of the fact he had breached a safety regulation, the worker was not to receive any pay for the time he was out of work.

Source: Louw, Carol. "Law Briefs" *HR Monthly March 2009* pg 14



*Do you have a question you would like answered? Let us know - your suggestions for topics are welcome.*

*If you know someone who would be interested in People Matters let us know and we will forward a copy to them.*

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*Previous editions of People Matters are available on the downloads page of our website.*

