



NEWSLETTER

Welcome



As we write this it is less than 4 weeks until Christmas - hard to believe isn't it?

Thank you to those who attended our November seminar - we had a full house upstairs at the Vic Brew Bar. The majority of the time was spent talking about recruitment - how to keep yourself safe, apply good practice, and get the best result. If you have a particular employment topic you would like covered in a seminar please let us know by dropping a line to lynda@chapmaner.co.nz.

We know that for most Kiwis Christmas is a time to head to the beach, but for some it is business as usual. We are keeping our doors open throughout this period to support employers who have issues or questions, so give us a call or send us an email if need be.

Donating to a Cause of YOUR Choice

The question of how to wish our clients well over the festive season has been on the radar. We have a strong sense of community at Chapman ER and on balance felt you might appreciate us donating the money that would have been spent on Christmas Cards to a charity of YOUR choice. We have selected 5 causes and will donate the funds to the local branch of the one with the highest response. To have your say please email lynda@chapmaner.co.nz.

The options are:

1. Cancer Research
2. Heart Foundation
3. SPCA
4. Salvation Army
5. Red Cross



Give Your Payroll Person a Break This Christmas

The mix of public holidays and close downs can create a real headache for payroll professionals. Some basic pointers are provided here.

- If your employer has regular annual close downs over Christmas you must give employees 14 days notice that they are not required to work during this period.
- Employees who are not yet entitled to annual leave but who are not required to work during the close down period must be paid holiday pay, calculated as required by the legislation (basically eight percent of gross earnings to date, as defined in the Holidays Act). Their 12 months of continuous employment (for the purposes of calculating annual leave entitlement) is deemed to have commenced on the date that the close-down begins.
- Because Christmas Day and New Year's Day fall on a Sunday, employees who normally work on a Tuesday will be entitled to a paid day's holiday on that day for each of these holidays. For employees who normally work on a Sunday, the public holidays will be observed on that day - i.e. that will be the employee's paid day off.

Problem Children - Every Business Has Them!

If you find yourself rolling your eyes at an employee and think "why does this always happen to me?" take heart - you are not alone! See if you recognise anyone from the list below, and try out the suggested tips for managing them.

The Tardy Employee ... arrives late, takes long lunch breaks and leaves bang on time. Be upfront about the issue and how it is affecting the team etc. Ask if they are committed to the job. If there are genuine reasons for the tardiness try to find a compromise that works for all.

The Back Stabbing Employee ... hides insecurity by discrediting co-workers and taking credit for more work than they have done. Be open to feedback from others and confront the employee – let them know the behaviour is unacceptable.



The Iceberg Employee ... is chilly to deal with, non-communicative and keeps to themselves. Be assertive! Communicate in writing to encourage involvement and ask open ended questions to generate a response.

The Martyr Employee ... cries "poor me", blames others and takes no responsibility. Put responsibility back on them and remain unemotional. Be very specific about the exact details of their behaviour and how it negatively affects the company culture.

Those With Sleepovers Beware

On 17 October 2011 a new Sleepover Wages (Settlement) Act came in to effect. This follows a 4 year dispute between Idea Services and the Service and Food Workers Union in what has become known as the "sleepovers case". This has sizable implications for organisations that have staff working on a "sleepover" arrangement. Employers need to be aware of two things - potential liability for historic wage claims, and the requirement to progressively increase payments for sleepovers by December 2012. This is a complex piece of legislation and we strongly encourage you to contact us if you do not fully understand the impacts it may have on your organisation.

To Reinstate ... or Not to Reinstate?

Historically reinstatement of an employee following a successful grievance claim has been the primary remedy. A change to employment law in April this year altered this state of affairs, and has recently been tested in two separate cases involving Ports of Auckland.

The first case involved a long term employee (Angus) who submitted a fake application for a Stevedore position, citing the name "Billy T James" and stating that he was from Tuvalu. The Ports of Auckland were hiring a number of employees from Tuvalu at the time. The employee later claimed that it was a "joke that went wrong" and he had not understood its offensiveness. However the Ports of Auckland rejected this on several grounds including a breach of Port values and policies. The employee was subsequently dismissed which he then appealed. His application for interim reinstatement was granted on the grounds that he appeared to have

been unjustifiably dismissed and had appreciated the error of his ways.

In the second example the employee (McKean) was summarily dismissed following concerns about a column he wrote in a magazine published by Maritime Union of New Zealand. The column raised concerns about previous managers and employment of foreign workers; it also contained sexual innuendo, was deemed to hold racist and sexist slurs, and appeared directed at identifiable individuals. Ports of Auckland dismissed the employee on the basis that the column was offensive, had damaged the reputation of Ports of Auckland, and they had lost trust and confidence in him. McKean's application for interim reinstatement was declined on the basis that his actions had detrimentally impacted his relationship with both his employer and fellow employees. Furthermore it was felt that the employee appeared to lack insight in to his behaviour.

So what can we take from this? While no longer the primary remedy under employment law reinstatement is still a possibility.

Last But Not Least We Wish You ...

... a safe, enjoyable, fun and relaxing Christmas break whatever you may be up to. We look forward to working with you again in 2012 ...

