



Toyota Manager fired for breach of contract

Date: Wednesday March 17, 2021

The District Court of NSW recently awarded the sum of \$276,681 to a former employee of Toyota Motor Corporation Australia Limited ("Toyota") after finding that the employee was wrongly dismissed for serious misconduct.

Former Toyota Manager fired over Pizza

Mr Sherry had worked for Toyota for just shy of 20 years and was terminated 1 day before he was entitled to receive \$379,268 for redundancy pay.

It was alleged that Mr Sherry was in breach of Toyota's policies while travelling interstate for a work trip by:

1. Purchasing a meal for his son with the employer's credit card,
2. Booking a larger hotel room than necessary; and
3. Staying an extra night for personal reasons.

In response, Mr Sherry gave the following evidence:

1. He purchased a pizza for himself and merely gave the leftovers to his son;
2. He did try to secure cheaper accommodation once he realised the expense of the room offered to him, but accommodation was limited and more expensive than usual due to the Australian Open being hosted in Melbourne at that time, which Toyota was aware of.
3. He stayed an additional night because he believed he would arrive back in Sydney after the airport's curfew and not for personal reasons.

The Court found that Mr Sherry's conduct did not amount to serious misconduct as defined in Mr Sherry's employment contract or at common law. Therefore, there was no valid reason for Mr Sherry's dismissal.

While the case discussed is a great win for Mr Sherry, it is important to clarify that this level of compensation is not the norm for workers who take legal action for being unfairly dismissed. The reason that the compensation awarded in this particular case was so high is because:

1. The legal action is for breach of contract, so there is no limit on compensation; and
2. Mr Sherry was entitled to \$379,268 in redundancy pay, which is significantly more than what most workers would be entitled to.

This is unlike an Unfair Dismissal claim, which is the most common legal action taken by workers who are unfairly dismissed, where compensation is limited to a maximum of 6 month's pay.

I may have been wrongfully dismissed, what do I do?

If you believe you have been [wrongfully dismissed](#), we recommend obtaining legal advice as soon as possible to ensure that you are commencing legal action in the Court that is best suited to your circumstances.

Depending on your circumstances, you may be able to make an Unfair Dismissal or General Protections claim in the Fair Work Commission. These applications must be lodged within 21 days of your dismissal, so it is imperative that you seek advice promptly.

You also may be able to commence legal action for a breach of your employment contract, as Mr Sherry did. In South Australia, the South Australian Employment Tribunal, Magistrates Court and District Court all have jurisdiction to deal with breaches of employment contracts.

Andersons Solicitors has a dedicated team of lawyers specialising in employment law and can assist in commencing legal action for wrongful dismissal. [Contact us](#) today.

Please note, this Blog is posted in Adelaide, South Australia by Andersons Solicitors. It relates to Australian Federal and South Australian legislation. Andersons Solicitors is a medium sized law firm servicing metropolitan Adelaide and regional South Australia across all areas of law for individuals and businesses.