More perils for employees using social media

This time last yearHarwood Andrewswroteabout the perils of social media in the workplace. Back then, many businesses had a limitedunderstanding of how an employees private use of online social media sitescould have an adverse effect on the business brand, reputation and evengenerate internal workplace disputes between employees. There has also been a noticeable increase inemployees being dismissed from their employment following inappropriate use ofsocial media, even if the conduct occurred in the employees own time.

Last years article referredto the dismissal of a hairdresser who was terminated by her employer after sheposted a comment on her Facebook page which related to grievances about herjob. In this case, the dismissal washeld to be harsh and unreasonable on the basis that the employees commentsmerely reflected her dissatisfaction with the hairdressing industry and did notdirectly relate to her employer.

Recently, an employersdismissal of an employee for comments made on the employees Facebook page hasfurther demonstrated how an employees conduct outside of work hours can leadto the dismissal of his or her employment.In this particular case, an employee of the Good Guys franchise inQueensland was terminated for serious misconduct after he posted the followingcomment on his Facebook page:

Wonders how the f--k work can be so f--king useless and mess up my payagain. C--ts are going down tomorrow.

The employee challenged thedismissal and argued that his Facebook page was only able to be read by 70 ofhis Facebook friends due to his privacy settings. A key flaw in the employees claim was thathis Facebook friends included co-workers and subsequently the comments wererelayed back to the employees superiors who notified the franchises directorand the employee was then dismissed.

Fair Work Australia upheldthe employees dismissal on the basis that the employees outburst was notexcused by the fact it was made on his home computer and outside of workhours. Plainly, the turning issue wasthat the employees comments were read by fellow employees and that it couldnot be accepted the employee would be unaware of the consequences of hisactions in these circumstances.

Fair Work Australia was alsoparticularly concerned about the threatening nature of the employees commentsand considered that the employer was justified in terminating the employeesemployment.

Deputy President Swan statedthat, The separation between home andwork is now less pronounced than it once used to be.

The employees comments didnot specifically name his employer however it was held that the comments wereclearly directed against his employer, whereas the hairdressers commentsreferred to above were deemed more broadly to be a passing shot at the hairdressingindustry in general.

This decision reaffirms thedeveloping principle that an employees actions outside of the workplace candirectly affect his or her employment.Employers ought to have well drafted social media policies which clearlyset out the limits of social media in the workplace as well as the consequencesto employees of inappropriate use of social media which could impact on theworkplace and the employer.

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