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Christmas Hours

The year has gone so fast! This is our final newsletter for 2017, so we would like to wish all of our clients a safe and happy holiday season.



Our office will be closed from 2pm on 22 December 2017 for the Christmas period. We will be open again from 15 January 2018. For any urgent enquiries call **027 239 9713** or **029 770 6218**.



Trial Periods—Important Things to Remember

We have recently had several queries about employees on trial periods. Here are some very important things to remember if you want to include a trial period in your employment agreement:

- * **The trial period must be written in the employment agreement.** If there is no trial period clause in the employment agreement, you cannot use the trial period to dismiss an employee.
- * **The trial period must be for a specified period.** The employment agreement must specifically state the length of the trial period. A trial period cannot be longer than 90 days. Note: A clause stating that the trial period is “up to 90 days” is not specific enough.
- * **The trial period clause must state when the trial period begins.** Usually the trial period is specified to commence when the employee commences work.

Important note: Goldstein Ryder Employment Agreements that contain trial period clauses comply with the law—no need to panic! If you have any questions please call us on 03 343 4419.

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If you wish to dismiss an employee under a trial period you need to make sure:

- * **The employee must have signed the employment agreement before they commenced work.** This means any kind of work—even inductions. Even if the employee works for one hour before signing their agreement you will not be able to rely on the trial period. It is best to have the employee sign and return the agreement to you before their first day.
- * **The employee cannot have worked for you before.** If the employee has worked for you previously you cannot put them on a trial period. This includes employees who have previously left your business and returned after a period of time.

Costs Awards and GST

Taking a case to the Employment Relations Authority or the Employment Court is very expensive. When the case is finished, the unsuccessful party must pay the successful party a reasonable contribution towards their costs. This is based on a daily rate of \$4,500.00 for the first day, and \$3,500.00 for each subsequent day. The Authority or Court have the discretion to uplift or reduce that daily rate depending on the circumstances of the case.

In a recent Employment Law case, *Judea Tavern Limited v Patricia Jesson*, Chief Judge Christina Inglis discussed the relevance of GST to a costs award. While a costs award does not engage the GST regime, GST is relevant to the *amount* of the award, in particular where a party (the employee) is not GST registered. This is because a party who is not GST registered is unable to recover GST, and therefore would suffer more loss than a GST registered party in the same position.

In the *Judea Tavern* case the Chief Judge took into account that the successful party could not recover GST and uplifted the costs award by 15% to reflect this.

Employment Questions? Contact us for advice about:

- Employment agreements
- Trial periods
- Collective bargaining
- Disciplinary investigations
- Restructuring and redundancy
- Dismissal claims
- Workplace policies
- And more...