

TERMINATION OF EMPLOYMENT - MULTIPLE ACTIONS

A Full Bench of Fair Work Australia has recently confirmed that there are significant restrictions on multiple actions taken by former employees who are dismissed.

An employee dismissed by a statutory authority failed in an application to the Transport Appeals Board regarding his dismissal. He then commenced separate proceedings under the *Fair Work Act 2009* ("the Act").

In rejecting an appeal against the dismissal of his application under the Act, the Full Bench noted:-

- The conditions for multiple actions had been tightened compared with those under the WorkChoices legislation; and
- There is a clear intention in the Act to set a limit on remedies that an applicant seeks if multiple remedies are available.

The provisions, in summary, prevent more than one of the following actions being taken by a dismissed person in relation to that dismissal:-

- An application for a Bargaining Order where the employee was dismissed in contravention of good faith bargaining requirements;
- A general protection application either to Fair Work Australia or a Court;
- An Unfair dismissal application;
- An Unlawful termination application to Fair Work Australia or a Court;
- A Complaint under any law (e.g. discrimination laws).

In general terms, this means that wherever multiple actions are taken in relation to a dismissal, there are now good prospects of being able to confine the applicant to only one action.

If you have any queries please call either Richard Pegg or Will Ward.

References: *Ilardo v Vale Corp* [2010] FWA FB 6473