

Friday, 12 October 2018

Weekly Employment Law Selected Bulletins covering Employment

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Executive Summary (1 minute read)

Altintas v O'Dea Lawyers (FCAFC) - industrial law - reserved question concerning South Australian Employment Tribunal's jurisdiction to determine appeal from Industrial Magistrate - Tribunal did not have jurisdiction to determine appeal - Court did not have jurisdiction to determine question

Hill v Forteng Pty Ltd (FCA) - corporations - contract - director's claims of oppression and breach of contract dismissed - expert's determination concerning valuation dispute contained "manifest errors" - valuation report remitted

Bobos v Deputy Commissioner of Taxation (NSWCA) - default judgment - taxation - default judgment entered against applicant by Commissioner of Taxation - extension of time for leave to appeal refused - leave to appeal refused

United Firefighters' Union v VEOHRC (VSCA) - administrative law - Commission did not have authority to carry out review of statutory authorities' employment practices - appeal allowed

Katae v State of Queensland & Anor (QSC) - judicial review - dismissal of appeal against 'temporary employment decision' - application for statutory order for review - application allowed

Summaries With Link (Five Minute Read)

[Altintas v O'Dea Lawyers \[2018\] FCAFC 165](#)

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Full Court of the Federal Court of Australia

White, Perry & Charlesworth JJ

Industrial law - question reserved to Court - South Australian Employment Tribunal (SAET) sought that Court determine question - question concerned SAET's jurisdiction to determine appeal from Industrial Magistrate where matter concerned 'entitlement under federal award' made under *Fair Work Act 2009* (Cth) (FWA0 and/or pecuniary penalties' imposition for breaches of FWA - whether appeal from SAET's decision would lie to Court - whether procedure under s26 *Federal Court of Australia Act 1976* (Cth) available such that Court had jurisdiction to determine question - s69(13) *Statutes Amendment (South Australian Employment Tribunal) Act 2016* (SA) - held: SAET did not have jurisdiction to determine appeal, thus appeal would not lie to Court - Court did not have jurisdiction to determine reserved question - Court declined to determine question.

[Altintas](#)

[From Benchmark Friday, 12 October 2018]

Hill v Forteng Pty Ltd [2018] FCA 1501

Federal Court of Australia

O'Callaghan J

Corporations - contract - oppression - plaintiff director, pursuant to s232(e) *Corporations Act 2001* (Cth), sought declaration defendants engaged in oppressive conduct and relief - plaintiff also claimed breach of contract giving rise to oppression - two disputes - in one dispute plaintiff claimed entitlement to salary arrears and superannuation arrears, and also claimed *Hungerfords* damages - other dispute concerned whether expert had made two "manifest errors" under shareholders agreement in valuation report (valuation dispute) - held: manifest errors established - expert's determination concerning valuation dispute not binding for shareholders deed's purposes - valuation report remitted to expert - claims otherwise dismissed.

[Hill](#)

[From Benchmark Friday, 12 October 2018]

Bobos v Deputy Commissioner of Taxation [2018] NSWCA 221

Court of Appeal of New South Wales

Beazley P; Macfarlan J

Default judgment - taxation - Deputy Commissioner of Taxation entered default judgment against applicant in amount - default judgment primarily related to applicant's liability as company director in respect of income tax which company had withheld from employees but which was not remitted to Commissioner - primary judge dismissed applicant's application to set aside default judgment - applicant sought leave to appeal - held: extension of time for leave to appeal refused - leave to appeal refused.

[View Decision](#)

[From Benchmark Friday, 12 October 2018]

United Firefighters' Union v VEOHRC [2018] VSCA 252

Court of Appeal of Victoria

Maxwell P; Tate & Priest JJA

Administrative law - appellant sought injunctions restraining first respondent Commission from carrying out review of statutory authorities' employment practices and declaration it was beyond respondent's power - review initiated due to Government's concern about 'discrimination, sexual harassment and victimisation' in statutory authorities' workforces - trial judge refused application - appellant appealed - whether respondent had authority under s151(1) *Equal Opportunity Act 2010* (Vic), or alternatively other power, to carry out review - whether the statutory authorities had requested the review - held: appeal allowed.

[United Firefighters](#)

[From Benchmark Friday, 12 October 2018]

Katae v State of Queensland & Anor [2018] QSC 225

Supreme Court of Queensland

Crow J

Judicial review - General Manager, Service Delivery, Housing and Homelessness Services, Department of Housing and Works made 'temporary employment decision' under s149 *Public Service Act 2008* (Qld) that applicant could not be converted from temporary to permanent role - applicant appealed in industrial registry - appeal dismissed - applicant sought statutory order of review - whether Linnane VP erroneously proceeded on basis s9 Directive 08/17 not relevant - whether Linnane VP erroneously misinterpreted s7 of directive - whether role was 'likely to be ongoing' - s20 *Judicial Review Act 1991* (Qld) - whether decision was 'fair and reasonable' - held: application for statutory order of review allowed.

[Katae](#)

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Evening Song

By: Sherwood Anderson

MY song will rest while I rest. I struggle along. I'll get back to the corn and the open fields. Don't fret, love, I'll come out all right.

Back of Chicago the open fields. Were you ever there—trains coming toward you out of the West—streaks of light on the long gray plains? Many a song—aching to sing.

I've got a gray and ragged brother in my breast—that's a fact. Back of Chicago the open fields—long trains go west too—in the silence. Don't fret, love. I'll come out all right.

https://en.wikipedia.org/wiki/Sherwood_Anderson

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