

## *Termination of employment during probationary period*

When an employee has served a probation period with a former business owner this does not preclude a new owner from requiring the employee to serve another probationary period.

The facts of a recent Australian Industrial Relations Commission case in February 2005 should be noted. In Lorimer and Bajo Investments Pty Ltd T/as Subway Windsor an application was made by Ms Leanne Lorimer for relief in relation to her termination of employment. Ms Lorimer challenged the termination claiming her termination was harsh, unjust or unreasonable. Subway Windsor argued that she was on probation at the time of her dismissal.

Bajo Investments T/as Subway Windsor had acquired the business in August 2004. Ms Lorimer had worked for the previous owner since January 2002 as a sandwich hand and shift supervisor. The new owner, Subway Windsor placed Ms Lorimer on a 3 month probationary period. Her employment was terminated during this probationary period. The change from one employer to another involved the termination of Ms Lorimer's original employment contract and the commencement of a new one with Bajo Investments Pty Ltd T/as Subway Windsor.

The Industrial Commission accepted evidence that this new employment had been offered subject to a 3 month probationary period and the probation period was valid. The new owners of the business could impose a new probationary period under the Workplace Relations Act upon an employee. Consequently, Ms Lorimer had no legal remedy for termination of employment on the grounds that the termination was harsh, unjust or unreasonable because she was an employee on probation at the time of her dismissal and specifically excluded under the current legislation.

For further information or to discuss employment law disputes please contact John Fallins Solicitors.

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