# A reminder for employers about process, and the requirement to properly investigate complaints

## A recent Employment Court decision is a useful reminder that having good grounds for dismissing an employee does not negate the requirement for an employer to meet its other obligations to that employee.

In Weidemann v Landcorp Farming Ltd trading as Pāmu [2026] NZEmpC 268, the Employment Court upheld the dismissal of an employee for serious misconduct arising from repeated health and safety breaches. However, the employer was still found to have unjustifiably disadvantaged the employee by suspending him without a fair process and by failing to properly investigate his bullying complaints.

The result was a justified dismissal, but the employee was awarded a relatively modest $11,400 in compensation for the two unjustified disadvantages, after a reduction for his contributory conduct in relation to the suspension.

**Safety rules were not a matter of "gut instinct"**

Mr Weidemann was employed on a fixed-term basis as a head calf rearer on one of Pāmu's dairy farms.

His employment agreement, job description and Pāmu's policies contained clear health and safety requirements. These included requirements to wear hi-vis clothing and to wear a helmet and seatbelt when operating a side-by-side vehicle.

Concerns emerged almost immediately. Eleven days after he started work, Mr Weidemann was given a letter of expectations after being reminded about compliance with PPE and vehicle safety requirements. The letter made clear that safety was non-negotiable and warned that further non-compliance could result in a formal meeting about potential serious misconduct.

Further incidents followed. The Court accepted that Mr Weidemann continued to have his own view about when the safety requirements needed to be followed. At the disciplinary meeting, he described health and safety as a matter of "gut instinct". Even by the time of the Court hearing, he maintained that his experience enabled him to decide when requirements such as wearing a helmet or seatbelt were necessary.

The Court considered the safety-sensitive environment in which Pāmu operates and found its requirements were reasonable and lawful. Given the admitted breaches and Mr Weidemann's continued minimisation of the risks, Pāmu was entitled to conclude that there was no credible assurance that his approach would change.

The dismissal was substantively justified.

**An employee does not need to prove bullying before an employer has to investigate it**

However, the outcome was different in relation to complaints Mr Weidemann had raised about bullying.

The Court did not find that he had actually been bullied or harassed. However, Mr Weidemann had raised bullying concerns with management and provided some information to support them. The Court considered that this was enough to require Pāmu to take the concerns seriously and make further inquiries.

Pāmu failed to do so. When the bullying complaint came up again during the disciplinary process, Pāmu's inquiry effectively consisted of asking the managers concerned what had happened and accepting their characterisation of the issue as a communication problem.

The Court found that was insufficient. Once the concerns had been raised, it was not for Mr Weidemann to keep pushing the employer to investigate them.

An employer can ultimately conclude, after appropriate inquiries, that a complaint is not substantiated. But it

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## A reminder for employers about process, and the requirement to properly investigate complaints (Continued)

should not work backwards from that conclusion and decide that the complaint therefore did not require investigation in the first place.

The failure to properly inquire into Mr Weidemann's concerns was an unjustified disadvantage.

**Suspension requires more than a reason to be concerned**

Pāmu was also found to have unjustifiably suspended Mr Weidemann.

There is no absolute rule that an employee must always be consulted before a suspension takes effect. In some circumstances, including where there is an imminent safety risk, immediate action may be justified.

However, in this case the Court found there was no imminent danger. The incidents giving rise to the safety concerns had occurred earlier and Pāmu had time to discuss the position with Mr Weidemann.

Instead, the decision had effectively already been made by the time his views were sought. The Court described the later opportunity to comment as "window dressing" and the suspension as a fait accompli.

The Court said that natural justice was not simply a procedural formality. A discussion before the decision was made could have allowed Pāmu to assess whether Mr Weidemann could safely complete his work and could also have avoided the confrontation which followed.

The suspension was therefore unjustified.

**Defects in the dismissal process**

There were issues with the disciplinary process itself too. These included the failure of Pāmu to ensure Mr Weidemann could properly attend and engage when there were connectivity issues with video conferencing during the disciplinary meeting.

Despite that, the dismissal was upheld. All of the allegations had been put to Mr Weidemann. He had responded to them and was later given another opportunity to respond to Pāmu's preliminary findings and proposed outcome.

The Court therefore concluded that, although there were defects in the process, they did not result in Mr Weidemann being treated unfairly.

We note here that the events in this case occurred before the 2026 amendments to the Employment Relations Act 2000 came into force, and therefore the Court was applying the previous version of s 103A(5). The new provision now states that a dismissal or other action must not be found unjustifiable solely because of defects in the employer's process if those defects did not result in the employee being treated unfairly.

**Remedies**

The Court awarded Mr Weidemann $6,000 in compensation for Pāmu's failure to properly investigate his bullying complaint and a further $6,000 for his unjustified suspension.

The Court assessed contribution in relation to each grievance. It found that Mr Weidemann's conduct contributed to the situation giving rise to his suspension grievance, resulting in a 10 per cent reduction to that award. It found no contributory conduct in relation to Pāmu's failure to investigate his bullying complaint. The total compensation awarded was therefore $11,400.

**Takeaways**

An employer may have good grounds for taking disciplinary action against an employee, but that does not relieve it of its other obligations to that employee, particularly in relation to procedure and investigation of complaints.

Where an employee raises concerns during a disciplinary process, the employer needs to properly consider and, where appropriate, investigate those concerns.

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## A reminder for employers about process, and the requirement to properly investigate complaints (Continued)

Similarly, while there may be good grounds for considering suspension, that does not necessarily justify suspending the employee without first seeking their views. Employers should consider each of these issues separately, both in terms of the substantive justification for their actions and the process they follow.

### Want to know more?

If you have any questions, please contact our specialist Employment Team.

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