👍 or 👎? Can an emoji change your employment terms?

The Employment Relations Authority has found an employee responding with a " 👍 " emoji is not enough to agree to a change of employment terms.

Background

In *Manukonga v Anthony and Emily Ltd*,[1] Ms Manukonga was employed as a Front of House/Barista position at a café. She received her employment agreement before starting work. However, its terms, including the 90-day trial period, were not discussed and she was not told to sign it before starting work. Ms Manukonga started on 24 February 2025 and signed the agreement on 1 March 2025, after completing three shifts.

Her employment agreement provided for normal hours of 25–35 hours per week, over three to four days, which could be varied by agreement.

During her employment, Ms Manukonga advised when she was unavailable, including during illness or family circumstances. The employer considered she was regularly unavailable, while Ms Manukonga said she attended 19 of 22 shifts. She understood advising her availability and arranging shift swaps was standard practice, as other employees did the same.

On 4 April 2025, Ms Manukonga told the employer she would be unavailable for six days because she was house-sitting and would have difficulty travelling to work. In response, the employer said it put her on a “casual position” and asked if that was okay.

Ms Manukonga asked if this was just for the following week and whether she could then return to her normal hours. The employer said as a casual employee, it could no longer guarantee her hours. When she again asked if her normal hours would resume, the employer said it could “try” but could not guarantee this. Ms Manukonga responded with a " 👍 " emoji.

The employer relied on the emoji as evidence that Ms Manukonga had agreed to vary her employment agreement and become a casual employee.

Shortly afterwards, Ms Manukonga was left off the roster. When she asked why, the employer told her it hired someone else and she was no longer needed. The employer relied on the 90-day trial period, to not provide a reason to end her employment.

Decision

The Authority found the exchange did not validly vary Ms Manukonga's employment agreement. Although the agreement did not require variations to be in writing, the proposed change was unclear and insufficient given the significance of changing Ms Manukonga's employment to casual. The employer could not rely on the message exchange, including the emoji, as a valid variation.

The Authority also found the employer could not rely on the 90-day trial period because Ms Manukonga had started work before signing the employment agreement. Strict compliance with the requirements for a valid trial period was required.

The Authority found Ms Manukonga had been dismissed when she was told she would receive no further work and had effectively been replaced. It held the defects in the process were significant and resulted in Ms Manukonga being treated unfairly. Her dismissal was considered clearly unjustified.

Ms Manukonga was awarded $3,578.29 in lost wages, $7,000 in compensation and $587.50 for one week's notice. Costs were reserved.

Key takeaway

A 👍 might be convenient, but employers should not rely on an emoji or other ambiguous response as

[1] [2026] NZERA 834

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agreement to a significant change to employment terms.

Where changes are proposed, employers should clearly explain what is changing, what that means for the employee, and obtain clear agreement before implementing the change. Any agreed variation should also be recorded in writing.

The decision is also a reminder that an agreement containing a 90-day trial period must be signed before an employee starts work if an employer wants to rely on it.

Want to know more?

If you have any questions about employment agreements, variations or 90-day trial periods, please contact our specialist Employment Team.

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