

Contribution Revisited: A Pendulum Swing Toward Employers?

One of the most significant, and perhaps under-appreciated, changes introduced by the Employment Relations Amendment Act 2026 is the reshaping of how employee contribution affects remedies in personal grievance claims.

Previously, where an employee's conduct contributed to the situation giving rise to a grievance, the impact was often modest, and employers frequently still faced substantial awards for compensation, lost wages, or reinstatement.

That position has now materially changed.

What has changed?

The Amendment Act strengthens the consequences of employee contribution by requiring the Employment Relations Authority and the Employment Court to reduce or remove remedies in a much more direct and prescriptive way.

In broad terms:

Where an employee's actions contributed to the situation giving rise to a personal grievance, reinstatement and compensation are not available as remedies.

Where that contribution amounts to serious misconduct, no remedies are available at all.

Where any remedies are payable, they may be reduced by up to 100 percent.

While contribution has always been relevant, the new framework removes much of the discretion that previously allowed substantial remedies to be awarded despite clear and significant employee fault.

A rebalancing exercise

These changes reflect the broader legislative theme of the 2026 amendments: rebalancing risk and responsibility within the employment relationship.

From an employer perspective, the previous regime often produced outcomes that felt disconnected from workplace realities.

These changes signal a clear policy shift away from that approach, with greater emphasis placed on the employee's conduct.

In that sense, the pendulum has swung to some degree toward employers.

Why this matters in practice

The practical implications for employers and employees are significant.

Employees will be more cautious in bringing personal grievance claims, given the increased risk regarding remedies.

Employers will be less inclined to settle purely to avoid the risk of remedies where there is evidence of employee contribution.

Documenting employee contribution now takes on greater importance and may be the difference between exposure to costly remedies and none at all.

Contribution Revisited: A Pendulum Swing Toward Employers? (Continued)

Employers should not read these changes as a license for sloppy process. Procedural fairness still remains essential. However, defects are now less likely to override serious employee misconduct when remedies are considered.

It is important not to overstate the effect of the amendments.

The Authority and the Court will still need to carefully assess whether employee conduct truly contributed to the grievance and determine whether that conduct meets the threshold of serious misconduct.

“Contribution” and “serious misconduct” remain relatively abstract concepts and are not yet settled in case law. Judicial guidance is expected in the months ahead as cases are resolved under the new scheme.

What should employers be doing now?

In light of these changes, employers should consider reviewing disciplinary and conduct policies to ensure expectations are clearly articulated, and ensuring managers are trained to identify, document, and address misconduct properly.

Want to know more?

If this article raises any questions or concerns, please get in touch with one of our [Employment Team](#).