



DECISION

Fair Work Act 2009
s.394—Unfair dismissal

Kaylee Hines

v

Redcape Hotel Group Pty Ltd
(U2022/11577)

VICE PRESIDENT CATANZARITI

SYDNEY, 14 FEBRUARY 2023

Application for an unfair dismissal remedy.

[1] Kaylee Hines (the applicant) was employed by Redcape Hotel Group Pty Ltd (the respondent) from the 26th of March 2018 until she resigned on the 28th of November 2022.

[2] On the 6th of December 2022, the applicant made an application for a remedy for unfair dismissal under s.394 of the *Fair Work Act 2009* (the Act).

[3] The legal business name nominated by the respondent in their F3 – Employer’s Response Form in this matter was Redcape Hotel Group.

[4] On the 20th of January 2023, correspondence was sent to the applicant in relation to the legal business name discrepancy and she was required to respond by the 27th of January 2023. No response was received at this time.

[5] Further correspondence was sent to the applicant on the 30th of January 2023 and she was required to respond by 5:00pm the 2nd of February 2023. It was in this correspondence that the applicant was advised her application would be dismissed without any notice if no response was received.

[6] To date, the applicant has not responded to any of the correspondence sent by my Chambers.

[7] Section 587 of the Act provides:

587 Dismissing applications

(1) Without limiting when the FWC may dismiss an application, the FWC may dismiss an application if:

(a) the application is not made in accordance with this Act; or

(b) the application is frivolous or vexatious; or

(c) the application has no reasonable prospects of success.

(2) Despite paragraphs (1)(b) and (c), FWC must not dismiss an application under section 365 or 773 on the ground that the application:

(a) is frivolous or vexatious; or

(b) has no reasonable prospects of success.

(3) FWC may dismiss an application:

(a) on its own initiative; or

(b) on application.

[8] The words, “*Without limiting when FWC may dismiss an application*” at the commencement of s.587(1) of the Act, establish that the jurisdiction of the Commission to dismiss an application is not limited to the circumstances set out in s.587(1)(a), (b) and (c).

[9] In the circumstances I have decided to dismiss the application for want of prosecution pursuant to s.587(3)(a) of the Act.

[10] An order to that effect will issue with this decision.



VICE PRESIDENT

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