



DECISION

Fair Work Act 2009
s.394—Unfair dismissal

Lina Cao

v

iMile Delivery & Logistic Pty Ltd
(U2025/4514)

COMMISSIONER MCKINNON

SYDNEY, 8 SEPTEMBER 2025

Application for an unfair dismissal remedy – whether harsh, unjust or unreasonable – remedy of compensation

[1] On 11 April 2025, Ms Lina (Amelia) Cao applied for an unfair dismissal remedy under s.394 of the *Fair Work Act 2009* (Cth) (Act) in relation to her employment with iMile Delivery & Logistic Pty Ltd (iMile Australia).

[2] On 20 June 2025, I found that Ms Cao was dismissed by iMile Australia in November 2024 when she was unilaterally demoted. I also found that Ms Cao was dismissed on 31 January 2025. I extended the time for Ms Cao’s application to be made to the Commission to 11 April 2025 (the First Decision).¹

[3] This decision is about whether the dismissal of Ms Cao was harsh, unjust or unreasonable. It also deals with the question of remedy.

[4] I have decided that Ms Cao was unfairly dismissed and that compensation is the appropriate remedy. These are my reasons.

Initial findings

[5] The effect of the First Decision is that the application was made within the period prescribed by s.394(2) of the Act. Ms Cao was protected from unfair dismissal at the time she was dismissed because she had been employed for more than 15 months by iMile Australia and her annual rate of earnings of \$100,000 plus superannuation was below the high-income threshold. iMile Australia was not a small business employer at the time of dismissal. It is part of a global group of companies (referred to in this decision as the ‘iMile Group’) with a workforce of over 20,000 people. It follows that the Small Business Fair Dismissal Code did not apply to the dismissal. The dismissal was not a case of genuine redundancy.

Background facts

[6] The history of the matter is largely set out in the First Decision. Findings of relevance to the merits of the case are summarised further below:

1. Ms Cao was originally employed in China by Hangzhou Aima Technology Co., Ltd. (iMile Hangzhou) on a 3-year fixed term contract from 13 January 2023 to 12 January 2026.
2. On 17 October 2023, Ms Cao commenced work in Australia as a Supply and Distribution Manager for iMile Australia.
3. In November 2024, Ms Cao was demoted from the role of NSW Regional Operations Manager to warehouse operator.
4. On 26 November 2024, Ms Cao was directed to return to China to assist the iMile Group with an audit issue and to undertake a procurement role on a temporary basis. The requirement to return to China quickly meant that Ms Cao did not have time to settle her dormitory lease or pack her personal belongings. She followed the direction after a period of leave from her employment with iMile Australia of approximately one month.
5. On 30 December 2024, Ms Cao resumed work in China.
6. On 31 January 2025, iMile Australia unilaterally paid out Ms Cao's accrued leave entitlements. This action brought the employment relationship with iMile Australia to an end.
7. On 17 February 2025, Ms Cao was detained by local police for approximately 30 hours in connection with allegations of criminal activity made against her by the iMile Group. The police issued her with a 12-month overseas travel ban which prevented her from returning to Australia. Ms Cao did not return to work for any entity in the iMile Group. Ms Cao was subsequently interrogated at least four more times by Chinese authorities about the allegations.
8. On 4 March 2025, Ms Cao was dismissed by iMile Hangzhou.
9. On 9 April 2025, Ms Cao applied to a labour arbitration commission in Hangzhou for resolution of a dispute about her dismissal on 4 March 2025. This was two days before this application was filed.

[7] During the merits hearing, it became apparent that Ms Cao had in fact commenced work in Australia for the iMile Group in or about February 2023. Her employment with iMile Australia was formalised on 17 October 2023 by a contract of employment between the parties although by this time, Ms Cao had been working to set up an Australian branch of the iMile Group for almost 6 months. To the extent that evidence of witnesses for iMile Australia is in conflict with the evidence of Ms Cao on these matters, I prefer the evidence of Ms Cao. The evidence of the other witnesses about key details of Ms Cao's employment such as dates, locations and her relationship with iMile Group's various entities is unreliable, including because much of it is hearsay or opinion evidence.

[8] There are discrepancies in the evidence about the description of Ms Cao's role over the period of employment. Although her contract of employment identified the role as her role as Supply and Distribution Manager, Ms Cao was initially employed by iMile Hangzhou as Assistant Procurement Manager. She was promoted to the role of Procurement Manager after passing her probationary period. In 2024, her good performance was further recognised with a salary increase. By November 2024, Ms Cao held the role of Regional Operations Manager (NSW) until she was demoted to warehouse operator that month. After a period of leave from

the end of November to December 2024, Ms Cao resumed work in China in a temporary Category Manager role in the procurement department until she was dismissed.

[9] Having regard to my decision that Ms Cao was finally dismissed on 31 January 2025, iMile Australia concedes that before the dismissal took effect, Ms Cao was not:

1. told about the reasons for her dismissal, or
2. given an opportunity to respond to those reasons before the dismissal.

[10] The unchallenged evidence of Ms Cao is that she has not worked since 17 February 2025 after she was detained by Chinese police.

[11] Material facts that remain in dispute are mostly about whether iMile Australia had a valid reason for the dismissal of Ms Cao. This is considered further below.

Was the dismissal harsh, unjust or unreasonable?

Was there a valid reason for the dismissal related to capacity or conduct, and was it notified to Ms Cao?

[12] The reasons relied upon by iMile Australia in defence of Ms Cao's application are that she had engaged in misconduct by:

1. engaging a supplier (VIBOT) to provide services at materially greater cost than would be charged by the iMile Group's globally approved supplier.
2. engaging VIBOT to assist its director, Ms Vikki Xie, with whom she had a personal relationship, obtain a 188 Business Innovation and Investment Visa.
3. engaging VIBOT despite knowing that it provided no services of value for the iMile Group.
4. engaging VIBOT under a 'Request for Quote' (RFQ) process which was inappropriate having regard to the nature and volume of the purchases.
5. deliberately splitting payments to VIBOT so as to fall just short of the internal cap of \$20,000 (USD), thereby avoiding the need for legal and financial review of the arrangements.
6. performing work for VIBOT at times she was being paid to perform work for iMile Australia.
7. corresponding with VIBOT and its supplier using her personal 'gmail' rather than the company email in order to conceal the arrangement from the iMile Group.

[13] In substance, the allegation is that Ms Cao deliberately failed to follow iMile Group's procurement processes in circumstances that were unlawful and for improper purposes.

[14] Ms Cao denies the allegations. She submits that she was thrown into the deep end when she was sent to Australia from Dubai with limited skills or experience in the logistics industry and tasked with establishing an Australian presence for the iMile Group in the local market. She says she worked very hard to do her best for the business under considerable strain and that this required practical decisions to be made to ensure business continuity. Ms Cao submits that her actions were always directed at achieving the best outcome for the business and were under

the instructions of, and approved by, the General Manager at the time. In some cases, the very transactions administered by Ms Cao that prompted allegations against her in relation to misuse of RFQs were also approved by one of iMile Group's founding partners, Mr Gao.

Engaging a supplier (VIBOT) to provide services at materially greater cost than would be charged by iMile Group's globally approved supplier

[15] The evidence of iMile Group on this issue is unpersuasive. It relies on bare comparisons of unit price without regard to contextual factors affecting purchasing decisions made by Ms Cao and her managers at the time, including business volumes, minimum orders for overseas purchases, and lack of access to approved suppliers. There is no evidence to establish the date that iMile Group's globally approved supplier was notified to Ms Cao as an approved supplier in the Australian market. Ms Cao made inquiries of her Chinese counterparts about the option of a Chinese supplier but did not hear back.

[16] Although both parties agree that a global framework agreement was entered into on 20 February 2024 for the overseas supplier, both Ms Cao and Mr Howard Qian (who gave evidence for iMile Australia) gave evidence that a local agreement was required between the supplier and iMile Australia before the global supplier was approved for use in the local market. This did not occur until sometime between May and July 2024. I accept this evidence. On this basis, the cage purchase transactions in question (in July 2023, January 2024 and February 2024) each occurred before the local agreement was in place.

[17] As to the rental of storage cages, it is not apparent that a rental facility was available through the overseas supplier. The global framework agreement deals only with the purchase of products.

[18] The allegation is not established.

Engaging VIBOT to assist its director, Ms Vikki Xie, with whom she had a personal relationship, obtain a 188 Business Innovation and Investment Visa

[19] This allegation is mere assertion. Ms Cao denies any personal relationship with Ms Xie and any knowledge of Ms Xie's motivations in establishing the business of VIBOT or contracting with iMile Australia to act as an intermediary in relation to the supply and rental of storage cages. There is no evidence to contradict Ms Cao. It may well be that Ms Xie had personal reasons for agreeing to contract with iMile Australia, including by advancing payments on its behalf and acting as guarantor for its business activities. It does not follow that these motivations were known to Ms Cao or that she had her own improper purpose for dealing with VIBOT. I accept Ms Cao's evidence that at the time, the business needed to find someone who could help with the purchase of equipment; that she sourced materials locally and got several quotes; that she assessed the rates charged by VIBOT as reasonable after conducting price comparisons, and that there were practical reasons for her acting in the way she did. The business was small, not long in the market and needed a third party to act as its guarantor in a contract with third party supplier, Cevol Industries.

Engaging VIBOT despite knowing that it provided no services of value for iMile

[20] Contrary to the assertions of iMile Australia, its arrangement with VIBOT was valuable to the business in two respects. Firstly, VIBOT acted as guarantor on behalf of iMile Australia in contracting with Cevol Industries. As noted above, this was considered necessary because iMile was new to the Australian market, did not have a business track record, and was either unable or unwilling to source a guarantor internally. Secondly, VIBOT agreed to advance payments to Cevol Industries on behalf of iMile Australia to assist with business continuity in circumstances where in the early days of its presence in the Australian market, its own ability to pay on time was less reliable.

Engaging VIBOT under a 'Request for Quote' (RFQ) process which was inappropriate having regard to the nature and volume of the purchases

[21] This allegation relates both to the procurement process used by Ms Cao in transacting with VIBOT and the reasons for her actions.

[22] iMile Australia submits that Ms Cao was not entitled to use the RFQ process for transactions of a combined monetary value that exceeded its policy cap. Within the iMile Group, the RFQ process is a 'short cut' for engaging suppliers without requiring a formal contract and internal legal and finance approvals or seeking competitive quotes from suppliers. It is intended for use with contracts to a value of less than \$20,000 (USD).

[23] iMile Australia also submits that she breached the Supplier Qualification Guidelines by engaging VIBOT despite it having been operating for less than 12 months. VIBOT at the time had only existed for 2 months. Ms Cao's evidence was that there were exceptions in practice to this policy where there were no suppliers that matched that criteria within the local market. Although the policy does not appear to provide for express exceptions, the evidence of Ms Cao was not disproven.

[24] I am persuaded that Ms Cao did not always follow iMile's procurement processes and procedures in the early days of her work to establish the business of iMile in Australia. She sought quotes from the local market but ultimately formed the view that transacting with VIBOT was a reasonable choice as a matter of practicality and business continuity. There were internal checks in which other people in the business had the ability to reject an application or ask for further details.

[25] Seen in context, I accept that the actions of Ms Cao were a practical response to the reality she was facing in what was essentially a 'start up' arm of the business in 2023 to early 2024. Ms Cao was sent to work in Australia despite limited tenure in the business, limited knowledge of the logistics industry and limited access to resources. Although she was familiar with the procurement processes of iMile Australia, she rightly understood that the standard approach for establishing formal supplier arrangements did not accommodate the tight timeframes and high-pressure environment she was dealing with.

[26] Ms Cao was one of the few early members of the iMile team in Australia. She worked under the direction of, and her transactions were approved by, the General Manager of the region. In many cases they were also approved by one of the two founding partners of the global business, Mr Gao. The other founding partner, Ms Rita Huang Zhen, was aware of concerns

about the procurement practices in Australia at least by June 2024. She had initiated an audit into the Australian operations two months earlier. On 5 June 2024, she directed the audit team to pause its investigation because the ‘business was newly established in the Australian market, had minimal staffing and Ms Zhen wanted to prioritise operational continuity’. These were almost the same reasons given by Ms Cao for her own conduct, to which the most senior officers of the business had either acquiesced or turned a blind eye.

[27] iMile Australia did not equip Ms Cao with sufficient resources to allow her proper adherence to its procurement processes while at the same time delivering on its expectation of rapid business growth and development. This related mostly to the period before the global framework agreement was implemented in the Australian market. Ms Cao explained that she used this process because she did not have the time to go through the normal channels and simultaneously meet business demands, and following the process was not realistic in those circumstances.

[28] Ms Cao’s failure to follow the procurement processes may have warranted responsive action from iMile Australia, such as allocation of additional resources or further training for Ms Cao on its procurement practices. However, I do not find that it was a valid reason for dismissal. It was the natural consequence of under-resourcing high expectations in a new and foreign market on the part of the iMile Group. I reject as without foundation any suggestion that Ms Cao deliberately failed to follow company processes because of improper motives.

Deliberately splitting payments to VIBOT so as to fall just short of the internal cap of \$20,000 (USD), thereby avoiding the need for legal and financial review of the arrangements

[29] There is evidence to support the conduct that underpins this allegation. Ms Cao submitted two RFQs, each for amounts of more than the USD20,000 cap, and later processed payments on those RFQs in six separate transactions.

[30] The allegation against Ms Cao in this respect is misconceived. It relies on the splitting of payments to VIBOT, rather than the splitting of RFQs, which is the conduct said to be inconsistent with iMile Australia’s procurement policies. That aside, the allegation that Ms Cao transacted in this way deliberately to avoid the need for legal and financial review of the arrangements is not established. As I have already observed, Ms Cao was doing her best to manage rapid growth of the Australian business and maintain business continuity. Her conclusion that it was not practical to defer the purchase or rental of storage cages pending the outcome of formal procurement management processes while maintaining these objectives was a reasonable one in the circumstances.

[31] It is also relevant that Ms Cao did not act alone in relation to these transactions. She worked in consultation, and with the approval, her General Manager and Mr Gao, whose approvals are apparent on the face of the record. I accept the substance of Ms Cao’s evidence on the issue. The allegation is not established.

Performing work for VIBOT at times she was being paid to perform work for iMile

[32] I reject the submission that Ms Cao was working for VIBOT when she acted through VIBOT for the benefit of iMile Australia. Her actions were in the implementation of collective decision made by Ms Cao and her superiors about what was necessary in the interests of building iMile Australia's business.

Corresponding with VIBOT and its supplier, Cevol Industries, using her personal 'gmail' rather than the company email in order to conceal the arrangement from iMile

[33] Ms Cao explained the reasons for using her Gmail account instead of her work email when interacting with Cevol Industries under the VIBOT umbrella. Ms Cao made appropriate concessions about this conduct, which again, was responsive to the circumstances she was facing at the time, and intended for the benefit of her employer. There was no effort or intention to conceal the arrangement between VIBOT and/or Cevol Industries from iMile Australia.

Conclusion on valid reason

[34] Having considered each of the allegations in turn, I find no valid reason for the dismissal of Ms Cao.

[35] The reasons for dismissal relied upon by iMile Australia were never notified to her in advance. Because there was no valid reason for dismissal, no such valid reason was notified to Ms Cao before the dismissal took effect. The first time that Ms Cao was put on notice that an audit of Australian operations was looking at her own conduct was on 17 February 2025, in the presence of the local police in China. Even then, the full nature of the allegations was not articulated to Ms Cao until iMile Australia filed its case in this proceeding.

Was there an opportunity to respond to any capacity or conduct related reason?

[36] Ms Cao was not given any opportunity to respond to the reasons for her termination before her dismissal took effect on 31 January 2025.

Was there any unreasonable refusal to allow a support person to be present to assist at any discussions relating to dismissal?

[37] There was no refusal to allow a support person to be present in discussions about the dismissal. There were no such discussions.

Was Ms Cao warned about relevant unsatisfactory performance?

[38] This is not a relevant consideration. The issues raised against Ms Cao were conduct-rather than performance-related.

Degree to which the size of the employer's business and any absence of dedicated human resources management specialists or expertise in the business would be likely to impact on procedures followed in effecting the dismissal

[39] iMile Australia has access to dedicated management personnel in the broader business, including in human resources. It is part of a group of companies of significant size. It has access to legal advisers, including in Australia. Regrettably, these resources were not deployed to support a procedurally fair process to manage the concerns of the business in relation to Ms Cao's conduct.

Other matters

[40] The failure of iMile Australia to put its allegations to Ms Cao before she was dismissed is particularly serious in light of the nature of the allegations made against her, and the corresponding lack of sound evidence to support them. In witness evidence filed for the jurisdictional hearing in this matter, the allegations were described as 'embezzlement and fraud'. They were later described differently as 'corruption' and 'collusion'. It goes without saying that these are very serious allegations to make against a person without proper foundation.

[41] At its highest, the evidence before me indicates a potential red flag about the conduct of Ms Cao's manager and his relationship with the director of VIBOT; Ms Cao's (authorised) failure to follow company procurement procedures in using RFQs to purchase cages from VIBOT for transactions that exceeded the policy cap; and the use of a private email account to conduct some of the affairs of the iMile business.

[42] I find that Ms Cao was generally motivated to act in the interests of the business, and in accordance with the instructions given to her. No evidence was produced of any financial or other personal gain to Ms Cao for the alleged serious misconduct, or even what an improper motive might be for that conduct. It can be inferred that no such evidence was in the possession of iMile Australia at the time of Ms Cao's dismissal given the lack of probative evidence before me. As Ms Cao observed in her final submissions, the iMile Group has had access to all of her business records on her laptop and mobile phone since ceasing work for the business. The making of such serious allegations against an employee without proper foundation is frankly disgraceful.

[43] Ms Cao's length of service for iMile Australia was approximately 15 months, and for the iMile Group, just over 3 years. No notice of termination was paid or given in connection with the dismissal.

[44] In the First Decision, I described the effect of the dismissal and related processes upon Ms Cao. She experienced high levels of anxiety and a sense of powerlessness in response to a subsequent criminal process initiated by the iMile Group and which led to a one-year overseas travel ban. Ms Cao has not been able to work since these events which occurred in February 2025.

[45] Another employee of the iMile Group who worked with Ms Cao in Australia, Mr Thomas Cai, appears to have been dismissed in similar circumstances to Ms Cao. However,

I do not have sufficient information about the circumstances of his case such that it might affect my consideration of the application of Ms Cao. It is a neutral consideration.

[46] Part of Ms Cao's initial claim was that she was dismissed in retaliation for asserting her contractual rights. The claim rested on an alleged date of dismissal of 9 April 2025. I rejected that notion in the First Decision. I am not satisfied on the evidence that the dismissal was for retaliatory reasons in relation to Ms Cao.

[47] In addition to compensation for past and future economic loss, Ms Cao sought orders for reimbursement of out-of-pocket expenses incurred during the employment and for her costs, as well as a public apology. These are not available remedies in the unfair dismissal jurisdiction except, in relation to legal costs, in limited circumstances. There is no evidence to support a claim for payment of legal costs because Ms Cao was self-represented in the proceeding.

[48] Ms Cao has separately made allegations of various unlawful conduct against the iMile Group, including in connection with the payment of salaries and taxation arrangements. The allegations are denied by the iMile Group and are not relevant to the application for an unfair dismissal remedy.

Ms Cao has been unfairly dismissed

[49] On balance, the various considerations weigh in favour of a finding of unfair dismissal. There was no valid reason for the dismissal of Ms Cao, and no procedural fairness in relation to the dismissal. The size of the business and its access to resources were sufficient to have prevented both outcomes. The other matters described in paragraphs [37] to [44] are either neutral or in favour of a finding of unfair dismissal.

[50] In all of the circumstances, I am satisfied that the dismissal of Ms Cao was unreasonable and unjust. Ms Cao has been unfairly dismissed.

Remedy

[51] Reinstatement is not an appropriate remedy in this case. There can be no doubt that the mutual trust and confidence required of an employment relationship has broken and is beyond repair. Further, Ms Cao is currently subject to a travel ban from Chinese authorities. As a practical matter, she could not return to work in Australia at the present time. Compensation is the appropriate remedy.

[52] Section 392(2) of the Act deals with how compensation is to be assessed in connection with an unfair dismissal. The established methodology is elaborated on in *Bowden v Ottrey Homes Cobram and District Retirement Villages Inc (Bowden)*.²

[53] *Viability (s.392(2)(a))*: There is no evidence that an order requiring iMile Australia to pay Ms Cao compensation would have a negative effect on the viability of its enterprise.

[54] *Remuneration Ms Cao would have received, or would have been likely to receive, if he had not been dismissed (s.392(2)(c))*: But for the allegations made against her, Ms Cao would likely have remained in employment with iMile Australia another 6 months. Her earnings in

that time would have been approximately \$50,000 plus superannuation at the rate of 11.5% (\$5750). That suggests a total compensation amount of \$55,750.00 is the appropriate starting point.

[55] *Remuneration earned between dismissal and decision (s.392(2)(e)) and income reasonably likely to be earned between decision and payment of compensation (s.392(2)(f))*: Ms Cao earned income of approximately \$5,000 (\$23,167.48 (RMB)) from iMile Hangzhou in the period from 1 February 2025 to 4 March 2025 (excluding payments of accrued leave on termination in that period). She has not earned any income since that time, and it is unlikely that any income will be earned by Ms Cao between the time of this decision and payment of the compensation amount. This warrants a reduction in the amount of compensation to \$50,750.00.

[56] *Length of service (s.392(2)(b))*: As noted above, Ms Cao's length of service was approximately 15 months with iMile Australia, and just over 3 years in total with the iMile Group. No adjustment in the amount of compensation is made on this account.

[57] *Mitigation efforts (s.392(2)(d))*: Ms Cao has not found a new job because of the distress associated with the dismissal and because she remains the subject of a serious criminal investigation that has not yet concluded. It is reasonable in the circumstances to understand why Ms Cao has not been able to successfully mitigate her losses to date. No adjustment is made on this account.

[58] *Other matters (s.392(2)(g))*: No discount for contingencies is warranted in the circumstances of this case given the passage of time since Ms Cao's dismissal and the known facts in relation to that period.

[59] *Misconduct (s.392(3))*: I find no relevant misconduct on the part of Ms Cao warranting any reduction in the compensation amount.

[60] *Shock, Distress (s.392(4))*: The amount of compensation does not include a component for shock, humiliation or distress.

[61] *Compensation cap (s.392(5)&(6))*: The amount of compensation to be awarded must not exceed the compensation cap of 26 weeks' pay. That condition is satisfied, and no further adjustment of the compensation amount is required.

[62] *Instalments (s.393)*: No application was made by iMile Australia to pay any compensation awarded by instalments and no order will be made to that effect.

Conclusion on remedy

[63] The compensation amount I have determined is neither plainly excessive nor plainly inadequate in the circumstances of the case.

[64] Order [PR791501](#) will issue separately giving effect to this decision. The matter is determined accordingly.



COMMISSIONER

Appearances:

Ms L Cao on her own behalf.

Mr A Crocker of Counsel, instructed by Hamilton Locke on behalf of iMile Australia.

Hearing details:

2025.

Sydney via Microsoft Teams:

August 28.

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¹ *Cao v iMile Delivery & Logistics Pty Ltd* [\[2025\] FWC 1746](#) at [16] and [31]

² [\[2013\] FWC 431](#)