

[2025] FWC 3842

The attached document replaces the document previously issued with the above code on 16 December 2025.

Typographical amendment of Respondent's name.

Associate to COMMISSIONER ALLISON

Dated 23 December 2025



DECISION

Fair Work Act 2009

s.536LU - Application for an unfair deactivation remedy

Gopal Bandameeda

v

Amazon Commercial Services Pty Ltd

(UDE2025/62)

COMMISSIONER ALLISON

MELBOURNE, 16 DECEMBER 2025

Application for an unfair deactivation remedy – whether deactivation complied with the Digital Labour Platform Deactivation Code – whether serious misconduct established – deactivation unfair – order for reactivation and lost earnings

[1] This decision relates to an application by Mr Gopal Bandameeda for an unfair deactivation remedy pursuant to section 536 LU of the *Fair Work Act 2009* against digital labour platform operator, Amazon Commercial Services Pty Ltd (**Amazon**).

[2] Since March 2023, Mr Bandameeda has performed work as a delivery person for Amazon, providing delivery services via Amazon’s digital labour platform, accessed through the Amazon Flex App. On 4 April 2025, while making a delivery Mr Bandameeda entered a private residence to leave a package. Following the delivery, Amazon received a complaint from the customer regarding Mr Bandameeda entering the private residence. On 7 April 2025, Amazon suspended Mr Bandameeda’s access to the Amazon Flex App, and on 8 April 2025 Amazon notified Mr Bandameeda that his access to the Amazon Flex App would be permanently terminated. Mr Bandameeda’s date of deactivation for the purpose of this application is 9 April 2025.¹

[3] Mr Bandameeda argues that Amazon has failed to follow the Digital Labour Platform Deactivation Code (**DLPD Code**) and that his deactivation is unfair. In summary, Mr Bandameeda argues his actions were reasonable and consistent with the Amazon Terms of Service, in circumstances where he believed he was authorised to enter the property by a household member. Amazon argues the application should be dismissed. Amazon raises a jurisdictional objection to the application, being that the deactivation was consistent with the DLPD Code. Alternatively, Amazon contends the deactivation was not unfair because Mr Bandameeda engaged in serious misconduct by breaching a fundamental requirement of the Terms of Service.

[4] On 11 November 2025 I conducted a hearing, in advance of which both parties filed material in accordance with directions issued. At the hearing, Mr Bandameeda was represented by Mr Cawley Hennings, and Amazon was represented by Mr Matthew Monucci. At the hearing

Mr Bandameeda gave evidence on behalf of himself with the assistance of an interpreter. Mr Joshua Wilde, Corporate Counsel, gave evidence on behalf of Amazon. I found both witnesses to be frank and honest. I note however, that Mr Wilde was only able to provide a second-hand account of some crucial matters relating to the review of Mr Bandameeda's case by Amazon and the decision to deactivate him. While this is perhaps understandable given Amazon's size and operations, it has meant there are important gaps in Amazon's case.

1. Background and evidence

[5] Amazon facilitates the delivery of purchased online goods to customers through the Amazon Flex program. The Amazon Flex program uses the Amazon Flex App to arrange for contract owner drivers (known as delivery partners) to collect goods from a distribution facility and deliver the goods directly to Amazon customers.²

[6] Mr Bandameeda commenced work for Amazon as a delivery person in March 2023.

[7] Prior to commencing with Amazon Mr Bandameeda accepted the Amazon Independent Contractor Terms of Service on 19 October 2022. In addition, Mr Bandameeda was required to watch induction videos regarding completing a delivery as part of his induction process.

[8] On 23 February 2025, Amazon sent an email and push notification through the Amazon Flex App notifying Mr Bandameeda and other delivery people that the Terms of Service had been modified.³ The update Terms of Service (**2025 Terms of Service**) is approximately four pages long. On the final page it requires delivery partners to comply with "*additional obligations that are specified on the FAQ page [LINK PROVIDED] under the heading Important Information*".

[9] The document headed 'Important Information' is approximately ten A4 pages long and includes a range of sub-headings and questions. Under a sub-heading titled "*Other safety requirements*", there are a number of dot points. The second dot point states:

"You are not to enter customer homes or garages under any circumstances, even if customer notes say otherwise."

4 April 2025 Delivery and Complaint

[10] On 4 April 2025, Mr Bandameeda arrived at a residential property to make a delivery. The delivery was an envelope that was slightly too big for the mailbox.

[11] The customer delivery note stated "*Leave at front door please. Call upon arrival.*"⁴

[12] The following is an account Mr Bandameeda gave in evidence regarding what occurred when he arrived to make the delivery:

"...the front door to the premises was wide open. I stood at the door right where you would usually put a door mat and called out "Amazon delivery" twice. There was a ladder near the front door.

A male voice replied saying something like: “yeah, drop it inside”, so I took two or three steps towards a table. I could then see the adult man who smiled at me. He was holding a tool or something else in his hand and appeared to be working on something. I placed the package on the table, took a photo and left the premises.”⁵

[13] Mr Bandameeda also provided evidence that:

- the front door was clearly visible from the street. Mr Bandameeda provided an internet photograph of a similar looking house to illustrate the view of the front door⁶; and
- it was a somewhat windy day⁷.

[14] Later the same day, the customer contacted Amazon to make a complaint about the delivery. Amazon provided transcript of the customer’s call. In summary the customer had not been home when Mr Bandameeda delivered the envelope. The customer had received a photograph taken by Mr Bandameeda which showed that Mr Bandameeda had left the package on a glass table in his home. The customer was concerned that the delivery partner had entered his house.

[15] When Amazon asked the customer if someone else might have been at home, the customer said, “I think my mum might have been there, but I don’t know why he would have been in my house still”.⁸

[16] Later that same day, an Amazon team member made a number of attempts to contact the customer by phone and email to obtain further details. Amazon records of the communications provide as follows:

“April 4, 2025 5:02PM Australia/Sydney – Answered Phone Call – Customer did not have the time or desire to discuss the incident in further detail and ended the call.”⁹

“Customer Wellness Check:

...

Detailed Summary:

- *Tried to ask details of the incident and ask customer for evidence.*
- *Customer said that they have no time for this investigation.*
- *Customer asked to just stop this investigation.”¹⁰*

First Notice on 7 April 2025, Mr Bandameeda’s responses and Deactivation

[17] At 11.46 am on 7 April 2025 Mr Bandameeda received an email from Amazon stating that his access to the Amazon Flex App was suspended. The email relevantly states¹¹:

“Hi Gopal,

We’ve reviewed your Amazon Flex account and determined that you have committed a serious violation of the Amazon Flex Terms of Service. As an independent contractor,

Amazon expects that you will comply with the Terms of Service and perform services in a professional manner

- On 04-April-2025, we received information alleging that you entered a customer's residence to deliver a package while delivering with Amazon Flex Entering a customer's home or garage without specific instructions to complete an Amazon Key in-garage or Packaging-Free delivery is a violation of the Terms of Service.

We have received the following evidence regarding this issue: Picture If you have any further questions about this matter, please be aware that privacy requirements may limit the further details we can share with you.

You have the right to (a) respond to this notice, and (b) request a discussion with Amazon within 48-hours of when this notice was sent to you. You may appoint a person (other than a lawyer acting in a professional capacity) to provide you with support and representation in respect of this notice. For example, this could include a friend or family member, or someone who may be a delegate or an employee of an organization. You can read more about the role of your support person or representative here <https://flex.amazon.com.au/digital-labour-platform-deactivation-code>

If you want to respond to this notice, please email amazonflex-appeals@amazon.com.au within 48-hrs of the notice being sent We will then provide you with details of how you can request a discussion if you want one and how this will be arranged (if you would like your support person or representative to attend).

You do not have to provide a response to this notice However, if you do not respond within 48-hrs of it being sent, we will proceed to make our final decision about the deactivation of your Flex account on the basis of the information we have without the benefit of your input.

While the above process is underway, your ability to deliver with Amazon Flex has been paused. The suspension is effective on 07-April-2025 at 11:46 AET. As a consequence, you will not be able to deliver with Amazon Flex until we finish our review of this matter.”

[18] In accordance with the email, Mr Bandameeda’s access to the Amazon Flex App was suspended on that day.

[19] At 1.23pm on the same day Mr Bandameeda replied to the email sent by Amazon with the following:

“How are you? Hope your doing well. Sorry for inconvenience caused for you and the customer also Feeling bad at my end. As soon as I entered to deliver package to the customer. Customer home is completely open I can't see anyone there but I can listen there words I have called them twice and twice but no one responded. I couldn't found safe place around there surroundings because I felt something work on progress and I moved one step and dropped the package and taken picture of it. customer working in his side door and I apologised him and return back. I'm very sorry for inconvenience. I have successfully delivered 20000

packages in my delivery history this incident never happened to me. Please give me one chance. I promise never do this again. You can contact My friend who is doing amazon flex about me [REDACTED] and you can talk to my wife about me [REDACTED]. Request:- Can you send the incident picture and once again sincerely apologise you and the customer about the incident. Please ACTIVE my AMAZON FLEX account.”¹²

[20] Neither of the contacts provided by Mr Bandameeda in his email were contacted by Amazon.

[21] At 8.56am, on 8 April 2025, less than 24 hours after the first email, Mr Bandameeda received an email from Amazon entitled “Final Deactivation Notice from Amazon Flex.” The email relevantly states:

“We previously notified you that we were considering the deactivation of your Amazon Flex account for violating Amazon’s requirements for providing delivery services.

We sent you a Preliminary Deactivation Notice on 07 April 2025 which set out the reason why Amazon was considering deactivation. We provided you with the opportunity to respond, which included the opportunity to request a discussion with Amazon, if you wanted one.

Because of your delivery history, and your breach of the Terms of Service (as described in the Preliminary Deactivation Notice sent on 07-April-2025) even after you were warned, Amazon has decided to terminate your access to the Amazon Flex program, effective immediately on 08-April-2025 at 08:40 AET.

Your eligibility to deliver with Amazon Flex will cease in 31 days on 09-May-2025 when we formally terminate the Amazon Flex Terms of Service Agreement. From that day onward, you will no longer be able to sign into the Amazon Flex app. You will be paid any amounts owed to you within 48-hours to the preferred payment method on file.

The Amazon Flex Team”¹³

[22] Mr Bandameeda sent a number of other emails to Amazon on 8 and 9 April 2025. In an email sent 8 April at 10.40am, Mr Bandameeda relevantly states:

“I entered into house when the customer is at house and I call customer and he just said leave the package on the table so I entered into property and placed parcel on the table and you can check my completed history I never violated any rules while delivering just I request you to please see from my perspective why should I enter without his permission when I call him he is in other work he said leave the package on the table so I followed his instruction and he said thank you as well to me and please I request you to take a decision after completely knowing the situation and please give me a chance to prove myself because I’m working from last two years with loyalty and without any issues to Amazon flex and please I want to talk to the team and I’m getting auto reply for this issue please it’s a big thing for me just give me a chance to talk to you.”¹⁴

[23] Amazon confirmed its decision to deactivate Mr Bandameeda in an email sent at 7.43am on 9 April 2025.

Delivery History

[24] At the time of his deactivation, Mr Bandameeda had received at least 12 - 14 “defect notices.”¹⁵ Amazon included 15 of these notices in its evidence¹⁶ but conceded at least 2 were regarding the same matter. The defect notices identify concerns with deliveries the most common being:

[25] *”Several customers recently reported not receiving a package you marked as delivered on [DATE]”* and

[26] *“Our records indicate that you have had multiple undelivered packages in recent blocks”*.

[27] Fourteen of the 15 notices are addressed to “Hello”. Four of the notices do not ask for any response. Ten of the defect notices state:

“Repeated occurrences of this type may affect your eligibility to participate in the Amazon Flex program. Please reply to email if you can provide us with more information about this incident”,

[28] Only one of the notices – relating to a late cancellation of a delivery block - is directly addressed to Mr Bandameeda and states that he should reply if he wishes to “appeal this outcome”.

[29] Mr Bandameeda provided Amazon with further information for 11 of the defect notices. Amazon gave evidence that 6 of the defect notices were successfully appealed.

[30] In July 2023, a customer made a complaint that Mr Bandameeda entered their premises without authorisation (**July Complaint**). At the time of the complaint, and in the hearing, Mr Bandameeda strongly denied this allegation. The July Complaint was investigated by Amazon. Amazon sent the following email to Mr Bandameeda on 16 July 2023¹⁷:

“Thank you for your patience as we reviewed your account. We’ve finished our investigation about a report received of private property being accessed without authorization.

Policy Violation: Customer Complaint

As an independent contractor, Amazon expects that you will maintain customer trust, perform services in a professional manner, and follow the instructions provided to you by Amazon or the customer. The service standards are intended to achieve this.

Within the past week, we received one or more customer complaints that they were dissatisfied with the delivery experience...

If you don't follow our program policies and Terms of Service, you will no longer be eligible to deliver with Amazon Flex"

[31] At the time of the deactivation Mr Bandameeda had completed around 22 000 deliveries and had a dashboard standing of "Fantastic". A dashboard standing tracks the history of a delivery partner in five areas: "On-time arrival, On-time cancel, Delivery completion, On-time delivery and Delivered and received."¹⁸ There are four standings (Fantastic, Great, Fair, and Poor), with Fantastic being the highest.

2. Initial Matters – Section 536LW

[32] Prior to considering the merits of an unfair deactivation application, section 536LW requires the Commission to have regard to certain matters. Section 536LW provides:

"The FWC must decide the following matters relating to an application for an order under Division 4 before considering the merits of the application:

(a) whether the application was made within the period required in subsection 536LU(3);

(b) whether the person was protected from unfair deactivation or unfair termination, as the case requires;

(c) whether the deactivation or termination was consistent with the Digital Labour Platform Deactivation Code or the Road Transport Industry Termination Code, as the case requires."

[33] With regards to s 536LW(a), the Full Bench in *Gopal Bandameeda v Amazon Commercial Services Pty Ltd*¹⁹ determined Mr Bandameeda was deactivated on 9 April 2025. While Mr Bandameeda's application was filed out of time, the Full Bench exercised its discretion pursuant to s536LU(3)(b) to extend the time for Mr Bandameeda to file his unfair deactivation application.

[34] With regards to s 536LW(b) it is uncontested that Mr Bandameeda meets the requirements of a person protected from unfair deactivation, being an employee-like worker who performed work through Amazon's digital platform on a regular basis for a period of at least 6 months at the time of his deactivation (s 536LD). In addition, it is uncontested that Mr Bandameeda had annual earnings less than the contractor high income threshold (536LU(2)).

[35] Section 536LW(c), the third initial matter about which I must be satisfied before considering the merits of the application, requires me to consider whether the Applicant's deactivation was consistent with the DLPD Code. A person's deactivation will be consistent with the DLPD Code, if, at the time of the deactivation, the digital labour platform operator complied with the DLPD Code in relation to the deactivation (s 536LJ(3)). If Amazon complied with the DLPD Code, Mr Bandameeda will not have been 'unfairly deactivated' (see s536LF).

[36] I now turn to consider whether Amazon complied with the DLPD Code.

2.1 Whether Bandameeda's deactivation was consistent with the Digital Labour Platform Deactivation Code

Submissions - DLPD Code

[37] Mr Bandameeda contends Amazon failed to comply with the DLPD Code on a number of grounds. Mr Bandameeda submits:

- Amazon failed to provide a deactivation warning (as per s 8 of the DLPD Code).
- Amazon failed to provide reasons relating to conduct (s 11(1)(a)), including failing to provide sufficient information to enable a reasonable person in the position of Mr Bandameeda to understand (s 11(2)).
- Amazon failed to provide a reasonable timeframe to respond/discuss (s 11(1)(c)).
- Amazon failed to make a representative available for requested discussion (s 13(5)).
- Amazon failed to take Mr Bandameeda's response and discussions into account and make further inquiries (13(7) and (8)).
- Amazon failed to provide a compliant deactivation notice.

[38] Amazon contends it complied with the DLPD Code. In particular Amazon submits:

- It was not required to provide Mr Bandameeda with a deactivation warning as the exception in s 9 applied (namely that Amazon considered on reasonable grounds that Mr Bandameeda's conduct warranted immediate suspension and that it was not reasonable to expect Amazon to allow Mr Bandameeda to continue to perform work).
- Amazon complied with the preliminary deactivation notice (s11).
- Mr Bandameeda was notified that he could request a discussion with Amazon, but did not request a discussion.
- Given the evidence before Amazon, including that Mr Bandameeda acknowledged that he entered the private property, Amazon considered, on reasonable grounds, that a valid reason for termination had been established.
- The deactivation notice met DLPD Code requirements.

Consideration – DLPD Code

[39] I am of the view that the process leading to Mr Bandameeda's deactivation was **not** consistent with the DLPD Code in a number of ways. In particular, I find Amazon's conduct and process in relation to the following matters did not comply with the DLPD code.

Section 13 (4) – (6) Discussion with operator's representative

[40] Section 13 (4) to (6) of the DLPD Code provides as follows:

“Discussion with operator’s representative

- (4) The employee-like worker may, within the period mentioned in paragraph 11(1)(c), request the digital labour platform operator to make a representative of the operator available to discuss the preliminary deactivation notice.*
- (5) If an employee-like worker makes such a request, the digital labour platform operator must make a representative available for the discussion within a reasonable time.*
- (6) A person appointed by the employee-like worker for support or representation (see section 16) may participate in the discussion.”*

[41] In its Preliminary Deactivation Notice Amazon stated the following in relation to requesting a discussion:

“You have the right to (a) respond to this notice, and (b) request a discussion with Amazon within 48-hours of when this notice was sent to you....

If you want to respond to this notice, please [email amazonflex-appeals@amazon.com.au](mailto:emailamazonflex-appeals@amazon.com.au) within 48-hours of the notice being sent. We will then provide you with details of how you can request a discussion if you want one and how this will be arranged (if you would like your support person or representative to attend).”

[42] Mr Bandameeda responded to the notice by emailing the relevant address within two hours of receiving the notice. In his email Mr Bandameeda provided contact details for his friend and wife. Amazon did not contact Mr Bandameeda’s friend or wife. Nor did they provide any details of how to request a discussion and how a discussion would be arranged.

[43] Amazon argues that Mr Bandameeda did not request a discussion, therefore Amazon was not acting inconsistently with the Code. I reject this argument.

[44] First, I am of the view that Mr Bandameeda’s email response of 1.23pm on 7 April 2025 sought a discussion with an Amazon representative. Mr Bandameeda, like many delivery partners, speaks English as a second language. Mr Bandameeda has provided evidence, which I accept, that he has difficulty communicating in English, in particular in writing, and that is why he wanted Amazon to call his friend or wife. Despite this, it is clear from Mr Bandameeda’s email that he is seeking to provide more information regarding the incident, he wants Amazon to review his case, and he has provided his friend and wife’s contact details because he wants Amazon to call them. I find it disingenuous for Amazon to argue that he was not requesting a discussion because he did not use the exact words “I request a discussion.”

[45] Second, in the preliminary notice Amazon states it will provide further details on how you can request a discussion if you respond to the email. This never occurred. In effect Amazon did not provide Mr Bandameeda with the opportunity to request to have a discussion with a human representative.

[46] Third, within the 48-hour period provided to Mr Bandameeda in the Preliminary Deactivation Notice, Mr Bandameeda explicitly sought a discussion with Amazon.

[47] In an email at 10.40am on 8 April 2025 Mr Bandameeda stated: *...Please I want to talk to the team and I'm getting auto reply for this issue please it's a big thing for me just give me a chance to talk to you...* (emphasis added).

[48] In an email at 1.54 pm on 8 April 2025 Mr Bandameeda sent an email stating *"... please give me a chance to explain everything.."*.

[49] In an email at 8.58am on 9 April 2025 *"please give me a call I will explain the situation on the day"*.

[50] I find Amazon did not provide Mr Bandameeda with the opportunity to have discussions with a representative, and therefore did not comply with 13(4)- (6).

Sections 13 (7) – (8) Operator to consider responses and make inquiries

[51] Section 13(7)-(8) provides as follows:

"Operator to consider response and make inquiries

(7) A human representative of the digital labour platform operator must consider the employee-like worker's response (if any), including the discussion (if any) between the worker and the digital labour platform operator's representative.

(8) The digital labour platform operator must make such further inquiries (if any) as are reasonably warranted after considering the employee like worker's response.-"

[52] I am not satisfied on the evidence before me that a human representative considered Mr Bandameeda's response. In this regard I note the following:

- As Mr Wilde was not involved in the process reviewing Mr Bandameeda's case and making the decision to deactivate Mr Bandameeda, Mr Wilde could not give first-hand evidence in this regard. In any event, Mr Wilde only provides evidence that he was "informed" that the relevant team reviewed the "evidence indicating Mr Bandameeda had entered the customer's house, and Mr Bandameeda's prior history".²⁰ No reference was made to the team reviewing any of Mr Bandameeda's response emails.
- The deactivation email was issued less than 24 hours after the Preliminary Deactivation Notice. The quick turn-around (including the fact that no follow up questions were asked) weighs towards a finding that Mr Bandameeda's response was not actually considered.
- The deactivation email makes no reference at all to Mr Bandameeda's response.

[53] Further, I am of the view that Amazon failed to make further inquiries that were reasonably warranted from Mr Bandameeda's response – including inquiries regarding whether a household member was at home and had authorised Mr Bandameeda entering the house.

[54] Given I have found that the deactivation was not consistent with the DLPD Code in the above regards it is unnecessary for me to go through each element of the DLPD Code. However, I note that some of Amazon’s communication was confusing including when the Preliminary Deactivation Notice referred to exceptions not applicable in Australia.

[55] In addition, it is unlikely I would have found the timeframes reasonable, given Mr Bandameeda was told he had 48 hours to respond and request a discussion with a representative, but was then sent a deactivation notice within less than 24 hours.

3. Merits of the Application - Section 536LF

[56] Having dealt with the initial matters under s 536LW, I now turn to the merits of the Application. In considering whether the Mr Bandameeda’s deactivation was unfair, it is useful to first set out the relevant statutory requirements. Section 536LF defines where a person has been unfairly deactivated in the following terms:

“536LF What is an unfair deactivation

*A person has been **unfairly deactivated** if the FWC is satisfied that:*

- (a) the person has been deactivated from a digital labour platform; and*
- (b) the deactivation was unfair; and*
- (c) the deactivation was not consistent with the Digital Labour Platform Deactivation Code.”*

[57] It is uncontested that Mr Bandameeda has been deactivated from Amazon’s digital labour platform (s 536(a)).

[58] For reasons given above, the deactivation was not consistent with the DLPD Code (s 536LF(c)).

[59] I will now consider s 536LF (b) – was the deactivation unfair?

3.1 Was the Deactivation unfair?

[60] Section 536LH lists the criteria to be considered by the Commission in determining whether a deactivation was unfair:

“536LH Criteria for considering whether a deactivation was unfair etc.

(1) In considering whether it is satisfied that a person’s deactivation was unfair, the FWC must take into account:

- (a) whether there was a valid reason for the deactivation related to the person’s capacity or conduct; and*
- (b) whether any relevant processes specified in the Digital Labour Platform*

*Deactivation Code were followed; and
(c) any other matters that the FWC considers relevant.*

(2) Despite subsection (1) and any other provision of this Part, a deactivation that occurs because of serious misconduct of the person who was deactivated is not unfair.

.....”

[61] It is clear that if serious misconduct is established, the deactivation will be taken not to be unfair. That is regardless of the digital platform operator’s compliance with the DLPD Code or any other matters the Commission may otherwise consider relevant.

3.1.1 Whether there was a Valid Reason for deactivation (s536LH(1)(a))

[62] Amazon submits that Mr Bandameeda was deactivated for serious misconduct because he breached a requirement that delivery partners do not enter private residence. In the alternative, Amazon argues that there was a valid reason for his deactivation. In order to determine whether the Applicant’s alleged misconduct constitutes serious misconduct it is necessary for me to deal with the first limb of s 536LH(1) to determine whether there was a valid reason for deactivation and whether that valid reason, if established, rises to the level of serious misconduct.

[63] The approach of the Commission in applying the term ‘*valid reason*’ in dealing with an application for an unfair deactivation by an employee-like worker pursuant to s 536LH(1)(a) was dealt with by a Full Bench in *Hotak v Raiser Pacific Pty Ltd*²¹ (***Hotak***). In *Hotak* the Full Bench relevantly stated as follows:

“[94] Turning now to the merits of the application. We must take into account each of the matters specified in s 536LH of the Act. As to whether there was a valid reason for the deactivation related to the person’s capacity or conduct (s 536LH(1)(a)), the same language is found in s 387(a) of the Act. For that reason, we consider that the same principles should apply in determining whether there was a valid reason within the meaning of s 536LH(1)(a) of the Act. They may be summarised as follows:

(a) In cases relating to alleged conduct, the Commission must make a finding, on the evidence provided, whether, on the balance of probabilities, the conduct occurred.

(b) It is not enough for a digital labour platform operator to establish that it had a reasonable belief that the worker engaged in particular conduct.

(c) The digital labour platform operator bears the evidentiary onus of proving that the conduct on which it relies took place.

(d) In cases where allegations of serious misconduct are made, the Briginshaw standard applies so that findings that a worker engaged in the misconduct alleged are not made lightly.

(e) It is necessary to consider whether the digital labour platform operator had a valid reason for the deactivation of the employee-like worker, although it need not be the reason given to the worker at the time of the deactivation.

(f) A “valid” reason for deactivation is one that is “sound, defensible or well founded” and not “capricious, fanciful, spiteful or prejudiced.” . A reason that is “valid” will involve something more than a minor failing or trivial misdemeanour, and must be of sufficient gravity or seriousness to justify deactivation.

[95] It is clear from s 536LH(2) of the Act that a deactivation that occurs because of serious misconduct of the person who was deactivated is not unfair. In cases involving allegations of serious misconduct against an employee-like worker, it is not enough for the digital labour platform operator to hold a reasonable belief that the worker engaged in the conduct. The requirement for the deactivation to have occurred “because of serious misconduct of the person who was deactivated” in s 536LH(2) means that the digital labour platform operator has the evidentiary burden to prove that the alleged conduct occurred and that it meets the definition of serious misconduct in the regulations.”

(Citation omitted)

[64] I have applied the above principles to my approach in this matter.

Mr Bandameeda’s submissions – valid reason

[65] Mr Bandameeda submits that there is no valid reason for his deactivation. In relation to Amazon’s contention that Mr Bandameeda has breached a fundamental condition under the Terms of Service, Mr Bandameeda submits:

- The requirement not to enter a private residence under any circumstance is not a legally binding term of service and/or,
- The requirement was not known to Mr Bandameeda and/or,
- Amazon did not reasonably communicate the requirement and/or,
- The requirement is unreasonable.

[66] Mr Bandameeda makes the following submissions regarding Amazon’s requirement that delivery partners must not enter private residence under any circumstance:

- It is inconsistently articulated.
- It has not been communicated clearly, particularly for someone from a non-English speaking background.
- There is contrary information describing exceptions.
- There is not a clear definition of private home.
- It has not clearly been defined as serious misconduct.
- It conflicts with other instructions.
- It does not contemplate circumstances where a household member is present and directs the delivery partner to drop the parcel inside.

[67] Further Mr Bandameeda argues:

- that even if there was a breach of policy or term, this does not necessarily establish a valid reason.
- Mr Bandameeda did not intentionally breach terms of services.
- Mr Bandameeda does not have an unsatisfactory delivery history or warnings regarding this matter. In fact, Mr Bandameeda has a good record with a ‘Fantastic’ standing.

Amazon’s submissions - valid reason

[68] Amazon contends that it had a valid reason to deactivate Mr Bandameeda because his conduct on 4 April amounted to serious misconduct. In this regard, Amazon argues:

- The conduct is not contested – Mr Bandameeda entered a private residence.
- This conduct directly contravened the Amazon Terms of Service, the FAQs and instructional videos.
- Amazon contends that there is a clear legally binding requirement not to enter private properties. Mr Wilde provided evidence that this requirement is fundamental to protect driver and customer safety.²²
- Therefore, Mr Bandameeda’s conduct was “*fundamentally inconsistent with the terms of the Applicant’s engagement with Amazon and potentially amounts to a criminal offence of trespass. It was wilful behaviour that was inconsistent with continued performance of package delivery work.*”
- The conduct was not a “first offence”. The Applicant has a history of breaches.

Consideration - valid reason

Findings on Evidence

- a. **What is the requirement and is it legally binding?**

[69] I am satisfied that at 4 April 2025, Amazon had a requirement that delivery partners must not enter private residence.

[70] I note that I am not satisfied on the evidence before me that when Mr Bandameeda initially accepted Terms of Service in 2022 there was a *requirement* relating to not entering private property. There was no explicit requirement in the 2022 Independent Contractor Terms of Service. While it is clear delivery partners were required to watch videos as part of induction – it was not clear which videos they were required to watch. This is important because if they were only required to watch “*How to Deliver with Amazon Flex*” – this video does not explicitly include reference to not entering a private residence.

[71] However, Amazon was entitled to modify the Terms of Service²³ and did so on 23 February 2025. Mr Wilde gave evidence that delivery partners were notified of the change via email and push notification. Delivery partners were taken to have accepted the 2025 Terms of Service if they continued work after receiving the email and/or push notification.

[72] The 2025 Terms of Service specifically require that the delivery partner is aware of and complies with “*any additional obligation that are specified on the FAQ page of <https://flex.amazon.com.au/> under the heading ‘Important Information’ (as amended by Amazon from time to time)*”.

[73] The Important Information document is approximately ten A4 pages long and includes a range of sub-headings and questions. Under the subheading titled “*Other safety requirements*”, the second bullet states: “*You are not to enter customer homes or garages under any circumstances, even if customer notes say otherwise.*”

[74] Accordingly, I am satisfied that at 4 April 2025, Amazon had a requirement that delivery partners should not enter private residence.

[75] I also find that this is, in most circumstances, a reasonable requirement. There are clear safety and reputational reasons why Amazon would not want delivery partners to enter private residence.

b. Was Mr Bandameeda aware of the requirement and/or should he have reasonably been aware of the requirement? Did Amazon appropriately communicate the requirement?

[76] I am not satisfied on the evidence before me that Mr Bandameeda was aware of the requirement in its more stringent form (i.e. that under *no circumstances* should he enter a private residence). I also have some real concerns regarding whether reasonable steps had been taken by Amazon to clearly and unambiguously communicate the requirement in its stringent form, particularly given they seek to rely on it for summary deactivation and many delivery partners are from non-English speaking backgrounds.

[77] In this regard I note:

- It is not clear it was a requirement in Mr Bandameeda’s initial Terms of Service or that he was required to watch a video referring to the requirement.

- The requirement is not included in the 2025 Terms of Service document. It is in a linked document that you need to scroll through to find. It is one dot point in a list of dot points, under one of multiple subheadings.
- Mr Bandameeda's initial Terms of Service was modified by email and push notification. While acceptance of terms by continuing work after receiving a push notification may technically mean the requirement forms part of the Terms of Service, it is hard to see how this could be seen as clear and unambiguous communication to ensure delivery partners know about certain terms, particularly when Amazon is relying on the terms to establish serious misconduct.
- It is unclear how Amazon has taken into account the fact many of its delivery partners do not speak English as a first language.

[78] However, while I raise these concerns, ultimately, I have not needed to determine whether Mr Bandameeda should have reasonably been aware of the requirement and/or whether Amazon appropriately communicated the requirement because I have decided this matter on other grounds.

c. Findings relating to incident on 4 April 2025

[79] As stated above I found Mr Bandameeda to be an honest and frank witness.

[80] Amazon argued that I should not accept Mr Bandameeda's evidence in relation to 4 April 2025 because it contends his version of events has changed over time. In particular, they state his first email in response on 7 April 2025 does not state that a man invited Mr Bandameeda in, and does not include a range of details (such as it being a windy day, and that the man was holding a tool).

[81] In response Mr Bandameeda submitted that English is his second language, and that his first email did not include all the details because he was not able to communicate clearly. This is why he included the phone number of his wife and friend. As Mr Bandameeda stated in oral evidence "*had someone from Amazon called me then I would have been able to explain it or everything to them in detail*"²⁴.

[82] I accept Mr Bandameeda's submissions in this regard. In any event I find that throughout the process Mr Bandameeda's evidence has remained consistent on key factors.

[83] Amazon further contended that I should not accept Mr Bandameeda's account, because the customer complaint shows that the customer was not home, and the only person the customer considered might be at home was the customer's mother.

[84] I accept that the customer's complaint is evidence that the customer was not at home.

[85] However, I do not accept that the customer complaint is evidence that Mr Bandameeda did not see another man at the house. The customer did not want to be further involved in the investigation and, in fact, requested that the investigation to stop. Amazon has chosen not to call the customer as a witness. In these circumstances where I have found Mr Bandameeda a

frank and honest witness, the customer complaint gives me no reason to question Mr Bandameeda's evidence.

[86] Accordingly, I make the following findings:

- When Mr Bandameeda arrived at the private residency the front door was wide open.
- He could not see anyone, but he could hear people speaking inside (in his email of 7 April 2025 Mr Bandameeda states “*but I can listen there [sic] words*”).
- Mr Bandameeda then called out twice to get attention.
- A man's voice said something like “*yeah drop it inside.*”²⁵
- Mr Bandameeda saw a man who he assumed was a household member holding a tool and working on his side door.²⁶
- The man acknowledged Mr Bandameeda.
- Mr Bandameeda placed the package on a glass table which was a few steps from the door. He then took a photo of the package on the glass table, which he uploaded to the App.

[87] I further accept Mr Bandameeda's evidence that it was a windy day, so he was concerned about leaving the lightweight package outside and that the front door of the property was in plain sight from the street, so he was concerned about leaving the package on the doorstep.

[88] I further find:

- it was reasonable for Mr Bandameeda to assume the man with the tool was the customer or household member.
- I find that Mr Bandameeda's conduct on 4 April 2025 is consistent with a delivery partner trying to diligently perform his duties to deliver a package to a customer.
- I find that Mr Bandameeda did not purposely or intentionally breach an Amazon Terms of Service.
- I find that in these particular circumstances there was no apparent health and safety risk involved in Mr Bandameeda placing the package on the glass table.

Was there a valid reason for Mr Bandameeda's deactivation?

[89] In some circumstances, failure to meet a term of service will certainly constitute a valid reason for deactivation. This is explicitly recognised at section 19 of the DLPD Code which provides that failure to meet a platform obligation may constitute a valid reason for deactivation “to the extent that the requirement is reasonable and is known to the worker as a result of communication from the digital labour platform operator or otherwise...”

[90] However, not every breach of a requirement or workplace policy will constitute a valid reason. As the Full Bench in *Virgin Airlines Australia Pty Ltd v Dylan Macnish* [2025] FWC FB 6 at 28 stated:

“There is no dispute that not every breach of a requirement of a workplace policy will constitute a valid reason for dismissal.²⁵As long ago as Bostik (Australia) Pty Ltd v Georgevski (No 1)(1992) 36 FCR 20, Sheppard and Heerey JJ observed (at 29):

Employers can promulgate policies and give directions to employees as they see fit, but they cannot exclude the possibility that instant dismissal of an individual employee for non-compliance may, in the particular circumstances of an individual case, be harsh, unjust and unreasonable.

As a result, it was necessary for the Commissioner to examine the nature and circumstances of the contravention”²⁷

[91] In determining whether failure to comply with a requirement constitutes a valid reason “*it is necessary to have regard to all the circumstances, including the nature and degree of the employee’s conduct.*”²⁸

[92] I am of the view that in the particular circumstances of the 4 April 2025, not complying with the requirement did not provide a valid reason for dismissal.

[93] In making this determination I rely on a combination of the following matters.

[94] Firstly, Mr Bandameeda was faced with a complex situation where a number of Amazon’s requirements conflicted, and it was not clear which requirement should be prioritised. Mr Bandameeda could not have left the package on the doorstep because this would breach a number of requirements:

- The doorstep was visible and accessible from the road. There is a requirement under Important Information that “*You must not leave packages in an unsecure location where they are at risk of being taken or damaged*”²⁹.
- It was windy and the lightweight package could have been blown away. There is a requirement under Important Information that “*You must take care of the packages you are delivering and ...[not] leave it in a place exposed to inclement weather (where possible)*”³⁰.

[95] In these circumstances where it is unclear what to do, Mr Bandameeda was required to contact the customer. This is consistent with Mr Wilde’s evidence³¹ and the customer notes. Mr Bandameeda could hear voices just inside the house and reasonably assumed that the customer was inside. He therefore, in accordance with requirements to contact the customer, tried to contact the customer by calling out to notify the customer he was there. A man inside the house, who Mr Bandameeda reasonably assumed was the customer and/or a household member, instructed Mr Bandameeda to drop the package inside. It is a requirement under the Contractor Terms of Service that a delivery person “*deliver packages to customers on time and in accordance with any customer preferences and instructions in the App*”³²“ If Mr Bandameeda had refused the simple request of dropping the package a few steps inside the door, the man who he assumed was the customer or household member may have believed he was being difficult and rude. It is a further requirement that in relation to customers that you “*behave respectfully and professionally when providing the Services.*”³³

[96] Faced with these seemingly conflicting requirements, Mr Bandameeda made a reasonable choice in the circumstances and dropped the package a few steps into the house.

[97] I note that the circumstances facing Mr Bandameeda do not appear to be particularly unique and one can imagine many circumstances where delivery partners are put in a position where they have to choose between competing requirements. If Amazon wants the requirement not to enter a home under any circumstances to be prioritised above other requirements – this needs to be made clear. This is particularly so in circumstances where the customer or household member is present at the residence and verbally requests a delivery partner to drop a parcel inside. Delivery partners may need to be instructed/trained in how to respond to customers who asks delivery partners to drop a parcel inside.

[98] Second, Mr Bandameeda did not substantially or wilfully breach the requirement.³⁴ As discussed by the Full Bench in *Virgin*, although intention is not a necessary requirement for breach of a workplace policy to constitute a valid reason for dismissal, a knowing and conscious breach of an employer’s policies is plainly more likely to constitute a valid reason than a breach which is inadvertent or unwitting.³⁵ In this case Mr Bandameeda clearly inadvertently breached the requirement as he was trying to fulfil his delivery duties. It was not a substantial breach – the front door always remained open, and he entered only a few steps after receiving authority from someone who appeared to be a household member.

[99] Third, while I can understand Amazon having a requirement that delivery partners do not enter private homes from a health and safety point of view, there is no evidence before me that in the particular circumstances Mr Bandameeda was being reckless in relation to health and safety and/or that there was any health and safety risk.

[100] Fourth, I do not consider that Mr Bandameeda’s delivery history or ‘warnings’ made his conduct on 4 April 2025 a valid reason for deactivation. Amazon’s Deactivation Notice on 8 April 2025 refers to Mr Bandameeda’s delivery history and being ‘warned’. In evidence Amazon presented 15 ‘defect notices,’ but conceded a number of the notices were replicated. Details of the defect notices are set out above at [24]-[29]. I find that the defect notices are not warnings. Rather they appear to be primarily automated notices giving generic feedback. None of the notices state that they are a warning. Four of the notices do not provide any opportunity for a response, while ten of the notices ask the delivery partner to reply “*if you can provide us with more information.*” Only one notice – referring to the late cancellation of a delivery block - indicates that Mr Bandameeda should reply if he wishes to appeal the outcome. Mr Bandameeda gave evidence that he will usually respond to the defect notice to provide further information, and Amazon conceded that at least six of the defect notices had successfully been challenged. Given Mr Bandameeda has a “Fantastic” dashboard standing, I am not of the view that the defect notices provide any substantial ground to suggest he had a history of not complying with Amazon requirements.

[101] Furthermore, I do not consider that Mr Bandameeda has previously been warned about unauthorised entry. Mr Wilde provided evidence that Amazon received a complaint about Mr Bandameeda in July 2023 claiming that he had entered a customer’s property without authorisation. At the time Mr Bandameeda strongly opposed this allegation. Amazon sent Mr Bandameeda an email dated 16 July 2023, replicated at [30] above stating that “*We’ve finished our investigation about a report received of private property being accessed without*

authorisation.”³⁶ However, it is not at all clear what the investigation concluded. There is no finding that Mr Bandameeda entered private property. Rather this email includes a number of generic comments. I am not satisfied that this email can be considered a warning.

[102] Given the above, I am not satisfied that Mr Bandamdeeda’s conduct on 4 April 2025 was of sufficient gravity or seriousness to justify a valid reason for deactivation.

[103] Given I have found that the conduct does not establish a valid reason for deactivation, it goes without saying that the conduct does not establish serious misconduct.

3.1.2 Whether any relevant processes specified in the DLPD Code were followed (s 536LH(b))

[104] I have already found that Amazon did not follow the DLPD Code. I take into account that some of the processes in the Code were followed – including the issuing of a Preliminary Deactivation Notice. However, ultimately, if Amazon had allowed Mr Bandameeda a proper chance to respond, including a discussion with an Amazon representative, it is likely it would have become apparent to Amazon that Mr Bandameeda had acted reasonably, and there was not a valid reason for his deactivation. This factor weighs towards a finding that the deactivation was unfair.

3.1.3 Any other matters that the FWC considers relevant (s 536LH(c))

[105] I have considered both parties submissions and evidence regarding Mr Bandameeda’s delivery history, defect notices, complaints or warnings, his dashboard standing of ‘Fantastic’ and his over 22 000 deliveries. For reasons given above at [100-101] I do not consider that the defect notices or the complaint in July 2023 can be considered formal warnings. Given Mr Bandameeda’s dashboard rating of ‘Fantastic’ and lack of formal warnings, I find Mr Bandameeda’s delivery history weighs in favour of a finding that the deactivation was disproportionate and unfair in the circumstances.

[106] I have also taken into account the substantial detrimental impact that the deactivation has had on Mr Bandameeda from a financial and emotional perspective. I also find these factors weigh in support of a finding that the deactivation was unfair in the circumstances.

[107] Having taken into account all the matters under s 536LH, I have determined that Mr Bandameeda’s deactivation was unfair.

4. Remedy

[108] Having found that the Applicant was unfairly deactivated I now turn to consider the question of remedy. Section 536LP of the Act confers a discretion to the Commission to order a person’s reactivation if the person was protected from unfair deactivation (s 536LP(1)(a)), was unfairly deactivated (s 536LP(1)(b)) and made an application under s 536LU. I have made findings in relation to each of these matters above.

[109] The Respondent submits that I should decline to exercise my discretion to order the Applicant’s reactivation on the basis it would be inappropriate to do so. Amazon submits that Mr Bandameeda’s conduct in breaching a requirement of Terms of Service has led to a breach

of trust and confidence. Amazon submits that the Mr Bandameeda has not at any stage acknowledged he has done the wrong thing by entering private property, and the Commission could not be satisfied that the conduct would not occur again.³⁷

[110] I am not satisfied that there has been a substantial breach of trust and confidence. It is very clear Mr Bandameeda values his work with Amazon. As I have found above, the incident on 4 April 2025 did not arise from Mr Bandameeda wilfully breaching a condition of the Terms of Service, but rather a situation where Mr Bandameeda was trying to perform his job well and had to negotiate a complex situation with competing requirements.

[111] It is also very clear to me that Mr Bandameeda has heard Amazon's concern and will behave differently in the future. In this regard I refer to the following email correspondence from Mr Bandameeda:

*"Sorry for inconvenience cause for you and the customer"*³⁸

*"Please give me one chance. It will repeat agin you can terminate me"*³⁹

*"I am committed to maintain the standards and expectatins that Amazon Flex upholds and would greatly appreciate the opportunity to discuss any steps I can take to resolve any issues related to my account."*⁴⁰

*"I repeatedly apolgiese for any problems I relation to the delivery on 4 April 2025. I hoped that Amazon Flex would consider my delivery history and willingness to build my understanding of anything I need to know to be able to do my work well. I would be very grateful for the opportunity for my account to be reactivated and would pride myself on working hard and to the highest standards"*⁴¹

[112] And in oral evidence Mr Bandameeda stated:

*"Going forward I will never enter a customer's house, even if they ask me to come an di will not be entering the house. I will tell the customer that I have been asked not to enter the house."*⁴²

[113] I further note that as there is no capacity for the Commission to order compensation (s 536LP(3)) in lieu of reactivation, to accept the Respondent's primary submission on remedy would result in no remedy at all for the Applicant. This also weighs against the Respondent's submission.

[114] Having regard to the above, I have determined to exercise my discretion and make an order requiring the Respondent to reinstate the Applicant's access to the digital labour platform operated by the Respondent within 7 days of the date of this decision, and that he be engaged on the same terms and conditions as those on which he was engaged immediately before his deactivation.

[115] The Applicant also seeks an order to restore lost pay under s 536LQ(3)-(4) of the Act. Given the Applicant has suffered a financial loss as a consequence of his unfair deactivation, I consider it appropriate to make an order for the Respondent to pay the Applicant an amount of

remuneration lost as a result of the deactivation. The task required in determining the quantum of compensation was set out by the Full Bench in *Hotak* as follows:

“

(a) **Assessing lost earnings:** Determine the amount of remuneration the worker would have earned from the digital labour platform operator during the period between deactivation and reactivation. In many cases, calculating the average of the worker’s weekly earnings from the digital labour platform in the period leading up to the deactivation will provide a reasonable estimate of the earnings they would likely have received had they continued working.

(b) **Deducting substitute earnings:** Subtract any earnings the worker received from other employment or working arrangements during the period between deactivation and reactivation, but only to the extent that such work would not have been undertaken had the worker remained active on the platform. That is, if the worker had a second job and would, in the counterfactual scenario, have continued working in that job to the same extent, those earnings do not replace remuneration lost because of the deactivation.

There will need to be a slight adjustment to this calculation if the worker’s actual reactivation takes place after an order for reactivation is made. In such circumstances, s536LQ(4) of the Act requires that the Commission take into account:

- (i) the amount of any remuneration earned by the person from work of any kind during the period between the deactivation and the making of the order for reactivation; and
- (ii) the amount of any remuneration reasonably likely to be so earned by the person during the period between the making of the order for reactivation and the actual reactivation.

(c) **Deducting avoided expenses:** Subtract any expenses the worker would have incurred had they continued working through or by means of the platform during the period between deactivation and reactivation. This ensures that any order to restore lost pay under s 536LQ(3) of the Act is confined to “remuneration lost, or likely to have been lost, because of the deactivation”.⁴³

[116] There is a small discrepancy between Mr Bandameeda’s calculations and Amazon’s calculations regarding lost earnings. In addition, Amazon submits that while Mr Bandameeda provided evidence regarding his efforts to look for work, it was not clear whether Mr Bandameeda had made any earnings relevant to the calculation of lost pay. Further, there was no evidence regarding expenses that would have been incurred by Mr Bandameeda if he had continued to perform work over the relevant period. On this basis I direct the parties to confer with the view to reaching a consent position on lost pay. The parties are to report back to me in writing by 4pm on Monday 22 December 2025 as to whether such agreement has been reached.

[117] After the parties have been given an opportunity to confer in relation to the quantum of an order to restore lost pay to Mr Bandameeda, I will make an order under s 536LQ(3) of the Act. Such an order will not constitute the payment of compensation to Mr Bandameeda, which is prohibited by s 536LP(3).

5. Conclusion

[118] For the reasons given, I have determined that Mr Bandameeda was unfairly deactivated from Amazon's digital labour platform on 9 August 2025. I consider it appropriate to exercise my discretion to make an order for the Applicant's reactivation together with an order to restore lost earnings in the following terms.

1. Pursuant to s 536LP(1) of the *Fair Work Act 2009* (Cth) the Fair Work Commission orders that the Respondent reinstate the Applicant's access to the digital labour platform operated by the Respondent within 7 days of this decision on the basis that he be engaged on the same terms and conditions as those on which he was engaged by the Respondent immediately before his deactivation.
2. This order commences in operation on 23 December 2025.

[119] An order for Mr Bandameeda's reactivation will be issued concurrently with this decision [[PR795106](#)]. An order to restore lost pay will be made after the parties have been given an opportunity to confer in relation to the quantum of the order.



COMMISSIONER

Appearances:

C Hennings, for the Applicant
M Monucci, for the Respondent

Hearing details:

2025
11 November

Melbourne

Final written submissions:

Respondent, 21 November 2025

Applicant, 14 November 2024

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¹ In *Gopal Bandameeda v Amazon Commercial Services Pty Ltd* [\[2025\] FWCFB 182](#) the Full Bench determined the date of Mr Bandameeda's deactivation was 9 April 2025, and granted Mr Bandameeda an extension of time for his application based on the existence of exceptional circumstances.

² DHB 183 Wilde witness statement [3].

³ PN403-405 Transcript of Joshia Wilde.

⁴ DHB 258.

⁵ DHB 136 Bandameeda witness statement [17-18].

⁶ DHB 328.

⁷ DHB 136 Bandameeda witness statement [17].

⁸ DHB 363 Transcript of call.

⁹ DHB 260.

¹⁰ DHB 261.

¹¹ DHB 155.

¹² DHB 156.

¹³ DHB 163.

¹⁴ DHB 164.

¹⁵ DHB 358 Wilde witness statement at [15(c)- 17], DHB 298 witness statement of Bandameeda [14]. While Amazon included 15 defect notices in evidence, it conceded that at least two were about the same issue.

¹⁶ DHB 235–249.

¹⁷ DHB 549.

¹⁸ DHB 271.

¹⁹ *Gopal Bandameeda v Amazon Commercial Services Pty Ltd* [\[2025\] FWCFB 182](#).

²⁰ DHB 188 [18].

²¹ *Hotak v Portia Pacific Pty* [\[2025\] FWCFB 214](#).

²² PN408.

²³ DHB 201 [12].

²⁴ PN295.

²⁵ DHB 136 [18], email dated 8 April 2025.

²⁶ *Ibid*, email dated 7 April 2025.

²⁷ *Virgin Airlines Australia Pty Ltd v Dylan Macnish* [\[2025\] FWCFB 6](#) [28].

²⁸ *Izdes v L.G. Bennett & Co Pty Ltd t/as Alba Industries* [1995] IRCA 499.

²⁹ DHB 38.

³⁰ Ibid.

³¹ PN467.

³² DHB 217.

³³ Ibid.

³⁴ *B, C and D v Australian Postal Corporation t/a Australia Post* [\[2013\] FWCFB 6191](#), [36].

³⁵ *Virgin Airlines v Dylan Macnish* [2025] FWCFB6, [26].

³⁶ DHB 196.

³⁷ DHB 358 Amazon Supplementary Submission [16].

³⁸ DHB 156.

³⁹ DHB 165.

⁴⁰ DHB 166.

⁴¹ DHB 142 – 143 [49].

⁴² PN141.

⁴³ *Application by Mohammad Shareef Hotak* [\[2025\] FWCFB 214](#) [131].