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Typically, it all begins with a business reluctantly being forced to make changes to ensure their continued viability. They might need to downsize or restructure to be able to compete in the market.

The idea is to save money and keep everything in the business moving along. But get the process wrong and the savings for your business will quickly fly out the window. The time, legal fees and possible compensation involved in an unfair dismissal case can quickly make a redundancy uneconomic.

Case in Point

A mining business in Central Queensland made a large group of employees redundant due to a global downturn in the demand for coal. Six of the employees claimed their dismissals were unfair, and sought reinstatement to their original positions. The reason being – they argued they could have been reasonably redeployed elsewhere within the business. The employees argued their redeployment opportunities could have come about through the replacement of existing labour hire positions within the business.

So in this circumstance – is it reasonable to replace its contractors with employees who would otherwise be made redundant? The Fair Work Commission (FWC) found in favour of the business. Before you start cheering, keep reading why this was the result.

It was agreed that the skills of the redundant employees meant they could easily work in the positions held by the labour hire workers. The company argued that the labour hire workers filled a particular need by providing relief for permanent employees during leave or training. It was difficult from an operational and cost perspective to have employees in these roles instead, as the hours could not be predicted with certainty.

In summary, the labour hire workers ensured a certain degree of operational flexibility that wouldn't be available otherwise and the FWC was reluctant to criticise a legitimate and documented business model.

The business had followed a rigorous process when preparing for these redundancies by evaluating the employees skills, performance & abilities and providing adequate documentation of why and how the decision was made.

What you need to do

Redundancy isn't rocket science – but it can turn into a complex project in its own right. You not only need to understand the law – but the process requires active management to ensure that your actions will stand up to a challenge, if one is mounted. Here are some key tips to keep in mind:

Be able to present your business case – paint a clear picture of how your business, hiring, firing decisions work.

Always consider redeployment – you're not obliged to find another job – but the possibility of redeployment is one factor in the Fair Work Act. The question is, whether it is reasonable and if you meet this test.

Watch out for bias – if the person making the redundancy decisions has 'history' with an employee who might face dismissal ie previous conflict or an issue with the employee's attitude – proceed with caution.

This is just scratching the surface, if you need help in managing redundancies in your business, Brismark can provide you with a copy of the Managing Redundancies – HR Factsheets, that walk you through the process.

Some business decisions can be absolutely gutwrenching – why make them worse for yourself or your business – Contact Brismark Business Services on 3915 4213 or esm@brismark.com.au – we're here to help.

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