



Notable case

Suspension—consideration of financial impact when an employee is suspended without pay

Date of decision: 1 March 2019

Overview

This case is concerning a fair treatment appeal regarding the suspension of an employee without pay.

The employer was served with a search warrant by the Queensland Police Service (QPS) seeking a copy of the employee's roster. The warrant outlined that the employee had been charged with several serious criminal offences.

Timeline of events:

- The employer received information from the warrant that was issued.
- The employer provided correspondence to the employee advising that they had been suspended on full pay under section 189 of the *Public Service Act 2008*.
- QPS advised the employer of the final, specific serious criminal charges that had been laid against the employee.
- The employer wrote to the employee advising that now they were aware of the specific charges and asking the employee to show cause why the suspension should continue with pay.
- The employee provided a response to the employer.
- The employer wrote to the employee advising of their decision to suspend them without pay.
- The employee appealed against the employer's decision. Grounds of appeal included that the financial impact of the employer's decision to suspend without pay had been grave. Without pay, the employee was forced to mortgage their house to fund the defence.

Decision

The Queensland Industrial Relations Commission Commissioner (the QIRC Commissioner) found that the decision to suspend without pay was fair and reasonable.

In relation to the financial impact of suspension without pay the QIRC Commissioner:

- accepted that the financial impact of the employer's decision on the employee was grave
- accepted that there is a financial impact on every employee who is suspended without remuneration – and therefore the financial impact must be significant to weigh against the decision to suspend without remuneration
- did not believe that there was evidence provided to them that indicated the employee would be rendered destitute if they were deprived of pay

- noted the employee’s ability to access their leave requirements and seek alternative employment with an entity other than the Queensland Government during the suspension period
- took into account that the nature and seriousness of the charges against the employee were profound
- took into account that the employee’s solicitors stated that it would be “optimistic” for the trial to commence within the next 9 –12 months, therefore if the appeal was allowed, the employee would be remunerated for possibly 12 months, or more, on full pay.

Messages for managers

Throughout the judgment, the QIRC Commissioner refers to the Public Service Commission (PSC) information guide: [Managing employee suspensions](#).

The QIRC Commissioner was satisfied that it was appropriate for the decision-maker to weigh up the relevant factors set out in that guide when arriving at their determination – particularly given the absence of any such criteria within the *Public Service Act 2008*, or in any other existing directives or guidelines within the Queensland public service.

Although the financial impact on an employee who is suspended without pay may be grave, this would not necessarily mean that they should not be suspended without pay.

There is a financial impact on every employee who is suspended without pay, and therefore the financial impact must be significant to weigh against a decision to suspend without pay.

The following two information guides from the Public Service Commission (PSC) should be read and considered before action is taken to suspend an employee without pay:

- [employee suspensions](#)
- [managing employee suspensions](#).

More information

If you are a Queensland public service human resources or industrial relations professional and want to know more contact the Public Service Commission, CaPE and HR assist team on 3003 2777 or via our [online enquiry form](#).