

DISMISSED NAB EMPLOYEE NOT A 'SCAPEGOAT' FOR ROYAL COMMISSION

4 JUNE 2019 | EMPLOYER'S LIABILITY

An NAB employee, dismissed for fraud, has had her unfair dismissal application rejected after asserting that she had been made a scapegoat by the bank for its part in the Hayne's Royal Commission into the banking industry.

IN ISSUE

Was the employee's dismissal harsh, unjust, or unreasonable?

THE BACKGROUND

Tang was employed by National Australia Bank Limited ('NAB') as a mobile banker. In her role, Tang regularly had contact with individuals and businesses who would refer new loan customers to NAB ('introducers'). These introducers were paid a commission for each new customer referred to NAB.

In June 2018 NAB conducted a review of an introducer called AU Gold Realty Pty Ltd ('AU Gold'). More than \$24,000 in commissions had been made to AU Gold for the referral of seven customers (each submitted by Tang), but six of those customers advised NAB that they had no knowledge of AU Gold. There was also evidence that Tang altered the name of the introducer on the loan documents without having the customer re-sign the forms.

After multiple meetings with her supervisor and a show cause letter, Tang was terminated and paid six weeks' remuneration in lieu of notice.

The applicant lodged an application with the *Fair Work Commission* ('FWC') for unfair dismissal, alleging that she had not been provided sufficient training by NAB, was being discriminated against because she was pregnant and Asian and, further, that she was a 'scapegoat' for the Royal Commission.

THE DECISION AT HEARING

The FWC found that Tang's dismissal was not harsh, unjust or unreasonable. In making this determination the FWC found that her conduct, including the fraudulent construction of the introducer consent forms was a valid reason for her dismissal. Further, Tang's responses to the allegations of misconduct were evasive and unconvincing.

Consequently, the FWC found that NAB had dismissed Tang for a valid reason, and the

conduct of the applicant represented serious misconduct sufficient to justify summary dismissal. The FWC also noted that NAB had, 'somewhat generously', elected to pay the applicant six weeks wage in lieu of notice.

IMPLICATIONS FOR YOU

This decision serves as a reminder that the FWC will not find an employee's dismissal was harsh, unjust, and unreasonable in circumstances where there has been serious misconduct and there are no other circumstances which indicate that the employee was treated unfairly. It is important to ensure, however, that staff are provided with training and understand the employer's policies and procedures.

Author: Mitchell Page

[*Longke Tang v National Australia Bank Limited* \[2019\] FWC 1950](#)