



A VL real life claim example

Employment Disputes

Contractor/Employee

The Insured was a medium sized manufacturing firm. It employed its own IT technician. The Insured's General Manager decided that the employee would better serve the company if he was engaged as a contractor for his services and a verbal agreement was entered into whereby the "employee" moved to totally flexible work hours and submitted invoices for his time. He also took care of his own tax, GST, ACC etc.

The Insured subsequently replaced its General Manager and the new General Manager decided on a complete review of its IT services. The informal nature of the "employee's" contract was overlooked. A consultant was asked to undertake a study working with the "employee" in preparing his report. The "employee" saw the writing on the wall when it became evident that the consultant was likely to recommend a full scale outsourcing of the firm's IT. It was clear that his services would no longer be required. With legal advice, he lodged a personal grievance claim against the Insured on the basis that he was an employee.

Following independent legal advice, the "employee" had to be deemed to be just that - an employee. Despite the contract arrangements had been in place for over nine months; there was no formal contract in place. The parties came to an agreed settlement.

There were issues of indemnity because if the claimant had been a contractor, then Employment Disputes insurance would not be applicable. The legal costs were substantial.

CEG 024-102019/000