

FIXED TERM EMPLOYMENT AGREEMENTS AND THE EMPLOYMENT RELATIONS ACT

TVNZ have recently come under pressure publicly to keep down the increasingly exorbitant salaries of its presenters. Consequently, TVNZ decided to slash Susan Wood's salary by \$100,000 at the expiry of her one year "fixed term agreement." The Employment Relations Authority has found, in its decision issued last week, that TVNZ was not entitled to do this. TVNZ must honour the agreement for \$450,000 or renegotiate.

When Susan Wood took up the post as Holmes' replacement, TVNZ wanted to offer her a fixed term agreement. It appears that the Board were uncertain how the new "Close Up at 7" show would go without Holmes and did not want to be locked into an agreement with Susan Wood indefinitely when the show might not be a success. However, the law provides that to rely on a fixed term agreement employers must:

- have a good reason based on reasonable grounds for the employment to end on the expiry of a term; and
- set out in the agreement the way in which the employment will end and the reasons for ending the employment in that way.

The Employment Relations Authority's determination is straightforward. TVNZ did not set out clearly the reasons why the employment would end, and cannot now rely on that employment agreement to terminate Susan Wood's employment. Nor did they advise Susan Wood of the reasons for the fixed term during their negotiations last year. TVNZ cannot now impose on Susan Wood different terms of employment. The Authority makes it clear that the proper way of revisiting Susan Wood's salary is by negotiation and such negotiations must occur in good faith.

Section 66 imposes strict drafting requirements, as there is a potential for employers to use fixed term agreements as a device to avoid the law relating to unjustified dismissal. The law protects junior employees, who may not be in a strong position to

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negotiate their terms and conditions of employment. However, it also applies to senior employees as this case demonstrates. It is normal for businesses to seek to limit the tenure of senior executives given that their performance and the performance of the company can be closely linked. These types of agreements require very careful drafting in order to ensure compliance with the Employment Relations Act 2000.

This very public spat between TVNZ and Susan Wood has really damaged the employment relationship. How an employment problem is dealt with by either party is very important if either wishes to maintain the employment relationship. Being forced to take legal action or being forced to defend legal action often spells the end of the employment relationship. Always take advice it's well worth the investment.