



cullings is the newsletter of
**Cullen – the Employment
Law Firm**

Level 13, Willbank House
57 Willis St, Wellington
Phone 04 499 5534
Fax 04 499 7443
enquiries@cullenlaw.co.nz
PO Box 11 218
Wellington, New Zealand

Peter Cullen

Principal
peter@cullenlaw.co.nz

David Burton

Senior Associate
david@cullenlaw.co.nz

Rachel Burt

Associate
rachel@cullenlaw.co.nz

Richard Roil

Senior Solicitor
richard@cullenlaw.co.nz

Charles McGuinness

charles@cullenlaw.co.nz

DISCLAIMER: This newsletter is intended to provide our clients with general information. While all statements are believed to be correct, no liability can be accepted for incorrect statements. Readers should not act or rely on this general information without seeking specific legal advice.

On Olympic Time

The Dominion Post published an article on Monday 21 July suggesting that up to 15 million dollars worth of productive time could be lost nationally through employees watching the Olympics at work. This is particularly relevant now that there are many sources of streamed coverage coming over the internet.

Long Time No Pay

An extraordinary case came before the Employment Relations Authority in March this year. When James Tahere quit his job as a cinema manager and projectionist in November 2007, he had not been paid by his employer for 21 months, despite receiving regular pay slips and wage records during this time.

He stated, and the court accepted, that he stayed because he enjoyed the work and believed that his employer would do the right thing and reimburse him, which the employer had promised to do on numerous occasions.

Mr Tahere's employer did not attend the Investigation Meeting or submit any evidence to counteract the claims. The Authority therefore awarded Mr Tahere \$51,145.50, with questions about holiday pay to be referred to a Labour Inspector.

Naturally **Cullen – The Employment Law Firm** emphasises to employers the statutory requirement for a written employment agreement and can advise on minimum rates of pay and holiday entitlements, preferably sooner rather than later!

If one considers that in one case an employee was been found to have visited over 900 websites in 12 days, at the extreme end of the spectrum, the possible collective scale of the problem becomes apparent.

That brings us back to the Olympics. **Cullen – The Employment Law Firm's** advice is that clear and timely notice of expectations about the Olympics and general policy about other internet issues will be useful in ensuring everyone is playing for the same team.

We suggest that a balance should be struck between maintaining productivity and giving some flexibility to staff over this time, acknowledging that it is a unique situation. Clear instructions on how your business views "reasonable personal use" is important so that everyone shares an understanding of what is expected.

Cullen Prize Winners

Every year **Cullen – The Employment Law Firm** sponsors prizes for the top achievers in Employment Law at the Law School of Victoria University. This year the prize winners were from left – Amy Cunningham, Grace Rippingdale, and John Healy shown here with Peter Cullen.

Peter gives a lecture most years to the employment law class allowing students an opportunity to ask about the practice of employment law and to discuss current issues and cases.



Disciplinary Processes – Suspension, detention, expulsion

If you think an employee is guilty of misconduct what are the steps to take? Many employers who start at ground zero with a valid concern of possible misconduct find themselves blindsided by employee allegations of procedural mistakes.

This Cullen seminar will give valuable insights into the traps and pitfalls that await hasty or poorly prepared employers.

Consider:

- Should your employment agreements contain schedules of misconduct and serious misconduct?
- Do you know what triggers a disciplinary investigation?
- When do you make decisions on suspensions?
- Who has the power to hire and fire in your organisation?
- Can the power to dismiss be delegated?
- Should investigations be in-house or external?
- What is the justification for dismissal?

Issues covered include:

- The employment contract – including House Rules/schedules
- Good Faith requirements

- Suspensions
- Fair procedure – initial enquiries, terms of reference, investigations
- Decisions on outcomes – warnings, dismissals

Come and learn some of the tricks of the trade. 12.15-2pm at the Wellington Chamber of Commerce, Level 28, The Majestic Centre, 100 Willis Street. Seminar fee \$97 +GST.

■ **Disciplinary Processes – Detention or Expulsion**
– What to do when someone is possibly misbehaving
– How to proceed and best practice **14 August**

■ **Managing Poor Performance – Getting the best from employees or getting them out** **10 September**

■ **Employment agreements – Fixed Term, Casual, Permanent – One type can become another!** **8 October**

■ **Difficult Dismissals – Instances of sickness, stress, delay by the employer may complicate dismissal**
– How to keep things on track **13 November**

■ **Restraints of Trade, Intellectual Property and Confidential Information – How to protect your valuable business assets** **10 December**



Please enrol me for **Disciplinary Processes on 14 August**

NAME:

POSITION:

ORGANISATION:

POSTAL ADDRESS:

BILLING ADDRESS:
(if different from above)

PHONE:

EMAIL:

☐ Cheque enclosed for \$109.12 GST incl. (payable to **Cullen – The Employment Law Firm**)

Please post with your payment to Cullen – The Employment Law Firm, PO Box 11 218, Wellington, New Zealand