

Mr Branden Deyssel

v

Electra Lift Co.

(C2025/3967)

DEPUTY PRESIDENT SLEVIN

SYDNEY, 8 AUGUST 20

*Application to deal with contraventions involving dismissal*

[1] Mr Deyssel has filed an application under s. 365 of the *Fair Work Act 2009 (the Act)* seeking that the Commission deal with a dispute over whether he was dismissed in contravention of Part 3-1 - General Protections of the Act. Mr Deyssel's employment ended in October 2022. He seeks an extension of time to file his application. His former employer Electra Lift Co. (**Electra**) opposes the extension of time and asserts that Mr Deyssel was not dismissed, as he resigned.



[2] The matter was dealt with in a conference on 6 August. I did not need to hear from Electra. I announced my decision to refuse to extend time at the conclusion of the conference. These are my reasons for that decision.



[3] Mr Deyssel resigned from his employment in writing on 19 October 2022. He makes his application almost 2 and a half years after his resignation. A resignation may constitute a dismissal in circumstances described under s. 386(1)(b) of the Act. As I am not granting an extension of time, I do not need to decide whether Mr Deyssel's resignation constituted a dismissal.

[4] Section 366(1)(a) provides that a person must make application under s. 365 within 21 days of dismissal. Section 366(1)(b) allows the Commission to extend time in exceptional circumstances. The Commission must take into account the matters listed in subsection 366(2) when considering whether exceptional circumstances exist. Those matters are the length of the delay, any action taken by the person to dispute the dismissal, prejudice to the employer including prejudice caused by the delay, the merits of the application and fairness between the person and others in a like position.

[5] The delay is 919 days. Mr Deyssel claims the cause of the delay was "a lack of awareness of my workplace rights" and that his former employer's action contributed to the delay because he was concerned that if he commenced proceedings the Respondent would take retribution against him. The first reason does not amount to exceptional circumstances. The Commission has repeatedly stated that ignorance of the statutory time limit is no reason for delay. The second assertion was not supported by any evidence. Mr Deyssel took no action prior to filing his application almost 2 and half years after his employment ended. The Respondent contends that it is prejudiced

by the application in that a lengthy period of time has passed since the dismissal and it should not be expected to revisit events from 2 and half years ago where it was given no warning that those events would be challenged.

[6] As to the merits of the claim, Mr Deyssel confirmed during the conference that he had used an  **artificial intelligence**  large language model, Chat GPT, in preparing his application. So much was clear from the deficiencies in the application which failed to address the matters required to make good a claim that [Part 3-1](#) of the [Fair Work Act](#) had been contravened. The application also included an extract from advice given by Chat GPT which was that various employment and other statutory obligations had been contravened by the Respondent. The advice suggested that Mr Deyssel commence various legal actions against the Respondent, including making application under [s. 365](#) of the Act. I can see no basis for this advice.

[7] Chat GPT also advised Mr Deyssel to consult a legal professional or union representative to determine the appropriate course of action. He did not do so. Mr Deyssel simply followed the suggestion made by Chat GPT and commenced the proceedings. The circumstances highlight the obvious danger of relying on  **artificial intelligence**  for legal advice. The result has been Mr Deyssel commencing proceedings that are best described as hopeless and unnecessarily wasting the resources of the Commission and the Respondent in doing so.

[8] I find that there are exceptional circumstances surrounding Mr Deyssel's application being the lengthy delay in bringing the application and Mr Deyssel's use of, and reliance upon, Chat GPT to bring what appears to be an altogether unmeritorious claim. I also find that those circumstances tell against granting an extension of time for the purposes of [s. 366\(2\)](#) of the Act. The prejudice caused to the Respondent in allowing the claim to proceed is also a factor in rejecting the application.

[9] The application is dismissed.



DEPUTY PRESIDENT

*Appearances:*

*Mr B Deyssel the Applicant on his own behalf.*

*Mr N Padgham for the Respondent*

*Hearing details:*

6 August 2025

Via Microsoft Teams Video

<PR790419>