

Roberts v View Real Estate [2015] FWC 6556

In this case Ms Roberts made 18 allegations of being subject to bullying by Mr Bird and Mrs Bird at View Real Estate. 8 allegations were found to be unreasonable behaviour. Ms Roberts was being treated for depression and anxiety by a psychologist and was not cleared for a return to work until the bullying stopped.

Allegation	Details	Verdict
1	<p>Ms Roberts alleged that she was belittled and humiliated by Mrs Bird when in 2013, an incident occurred when an Australia Post employee, Glen Boyd, made a delivery to Ms Roberts at the workplace and this behaviour was unreasonable.</p> <p>The incident involved the delivery of a parcel addressed to Ms Roberts at her workplace. Mr Boyd approached Ms Roberts with the parcel and asked her to sign for it. At this time there was an altercation involving Mrs Bird, Mr Boyd and Ms Roberts. Mr Boyd's and Ms Roberts' evidence was that Mrs Bird acted in an aggressive and rude manner which caused embarrassment and humiliation to Ms Roberts. It was said this behaviour involved Mrs Bird grabbing the parcel scanner from Ms Roberts, snatching the parcel off the desk, speaking in a rude, loud and abrupt manner and saying, among other things, "I am telling you both now, Rachael is not to sign for items and it is to stop as from now". Ms Roberts' evidence confirmed Mr Boyd's version of events in all material respects and Ms Roberts said she felt embarrassed, humiliated and upset and that she had witnessed other people signing for parcels</p> <p>Mrs Bird's evidence was that she was not aggressive, rude or abrupt in her dealings with Mr Boyd and Ms Roberts, and that she was concerned that Mr Boyd was not known to her and he was entering an area of the business which was outside of the reception area. Mrs Bird confirmed that she told Mr Boyd she would sign for the parcel and denied saying that Ms Roberts was not allowed to sign for parcels.</p>	Bullying
2	<p>Ms Roberts alleged that she was treated differently to other work colleagues in that Mrs Bird would not allow her to adjust the temperature setting on the air conditioning unit when she was cold, but would allow other employees in the workplace to do so and this was unreasonable behaviour</p> <p>It was Ms Roberts' evidence that she was aware that the front area of the office did get hot, but that as the controlled air was blowing straight on her where she sat at her desk she would often get cold in the office and had to get up several times a day and try to warm up. She said the air flow made her sick with headaches and colds and</p>	Not Bullying

	<p>that she asked if the temperature could be turned up. Ms Roberts said Mrs Bird told her she was not allowed to touch the air conditioning unit. Ms Roberts also said that Mr Bird, Mrs Bird and Mr Claxton could adjust the temperature on the unit when they liked.</p> <p>Mrs Bird denied ever telling Ms Roberts not to adjust the temperature on the air conditioning unit. Mr Bird's evidence was that there was a design issue within the workplace that made the regulation of air temperature difficult and that he had given a direction to staff that they were not to adjust the temperature on the air conditioning unit. Mr Bird gave evidence that it was possible other staff had adjusted the unit but he had given the direction that the temperature should not be adjusted.</p>	
3	<p>Ms Roberts alleged that she was treated differently in the workplace as Mrs Bird insisted Ms Roberts had to wear the full work uniform, whilst other employees were allowed to wear other clothing and this treatment was unreasonable</p> <p>It was Ms Roberts' evidence that the View uniform did not fit correctly and that she wished to purchase a professional suit to wear to work, as she had done at a previous workplace. Ms Roberts said that at the end of October 2014 she had a conversation with Mrs Bird in the office about this and that she was told by Mrs Bird that "I was not, under any circumstances, to wear anything bar the uniform into the office." Ms Roberts said that Carol Hill and Garry Jessup were not wearing uniforms at that time, but they had only just started with the business and that Mr Claxton had told her he did not think there was a uniform for men. Subsequently Ms Hill was provided a uniform and Mr Jessup advised Ms Roberts he hadn't been offered a uniform.</p> <p>It was Mr Bird's evidence that View provides \$800 per annum to some staff to purchase items of work uniform and that when that money is accessed, it is expected that the uniform will be worn. Mr Bird said that Mr Jessup's employment contract does not contain a uniform allowance and he was never offered a uniform. Mrs Bird's evidence is that View offers some employees \$860 per annum for the purchase of uniform items and that some employees do not have this allowance included in their employment contract. Mrs Bird said that she told Rachael that View supply suits and uniforms through the payment of the allowance and that is the preferred clothing option for those employees.</p> <p>Ms Roberts did not deny being in receipt of an allowance for the provision of a uniform to a value of \$860 per year.</p>	Not Bullying

4	<p>Ms Roberts alleged that she was treated differently in the workplace to other employees in that Mrs Bird deliberately delayed performing any administration work involving Ms Roberts' property listings or potential listings to make Ms Roberts look unprofessional and that this behaviour was unreasonable</p> <p>Ms Roberts provided two examples of matters which she said showed Mrs Bird behaving unreasonably. The first matter involved the paperwork and administrative process of a silent listing. Ms Roberts said in the first week of work in January 2015 she placed the silent listing paperwork for a property into Mrs Bird's in-tray where it remained for nine days without being actioned. Ms Roberts said that Mr Claxton was in the office and she noticed his work was getting done as she was checking the in-tray for the progress of her work. Ms Roberts said on the ninth day at 5pm she showed the document to Mr Bird, explaining that her work was not being processed by Mrs Bird. She said that Mr Bird said nothing to her at that time, but that the following day the paperwork was actioned. Ms Roberts said normally it should only take one day to action a silent listing sheet.</p> <p>It was Mr Bird's evidence that that he recalled bringing the matter up with Mrs Bird and being informed that a mistake had been made in that the silent listing sheet was incorrectly placed into an unrelated file. He did not recall Ms Roberts showing him the silent listing sheet. Both Mr Bird and Mrs Bird were cross-examined on this matter. Mrs Bird stated that the silent listing sheet had been incorrectly filed and she found the listing sheet after Mr Bird had questioned her about it.</p> <p>The second matter involved an urgent rental appraisal for a property involving Ms Ryan, a client of Ms Roberts in early November 2014. Ms Roberts' evidence was that she asked Mrs Bird to immediately carry out the appraisal as the rental value was needed to assist Ms Ryan with her mortgage loan application. Ms Roberts said the appraisal was carried out by Ms Carol Hill the following day, however despite Ms Roberts advising Mrs Bird of the urgency of the rental appraisal, Mrs Bird posted the rental appraisal letter to Ms Ryan rather than send it electronically. Ms Roberts provided an email string from 6 November to 11 November 2014 which showed Ms Ryan chasing the rental appraisal letter and Ms Roberts' responses to her. Ms Roberts said the normal procedure at View was to email the rental appraisal letter and to post the original. Ms Roberts said the documentation was not ready for the bank and the purchaser changed her mind and did not proceed with the sale.</p> <p>Mrs Bird provided no evidence in relation to this matter.</p>	Bullying
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