**UNFAIR DISMISSAL – The Milo case**



Is Milo worth losing your job over?

Read the following case and decide whether this is a case of unfair dismissal.

Who was wrong in this case?  
An employer should have a thorough knowledge of unfair dismissal laws before dismissing a worker. For a dismissal to be unfair, it must be considered to be harsh, unjust or unreasonable.

In unfair dismissal cases, the employer and employee are encouraged to find a solution to the problem themselves. Sometimes though, the Fair Work Commission must make a decision about whether the employee has been unfairly dismissed.

The Milo case

In the Homes vs Coles Group (2014) FWC 1013, a Coles employee took some Milo and was dismissed. Coles provided Milo for their staff to drink on a tea break. One employee preferred to drink Milo mixed with his own drinking chocolate, coffee and raw sugar. He would regularly take some Milo home from work in a container to mix it with ingredients from home.

In August 2013 a security guard found Milo in the worker’s bag but the worker claimed the Milo was his (supposedly because he was in a state of shock). The employee was first suspended from Coles Warehouse while an investigation took place. After the employee was interviewed about the matter, 11 days later he was dismissed for serious and wilful misconduct because he had taken the Milo and lied about it. The Commission found that the employee was unfairly dismissed. The employee was reinstated and was also paid for the period of time between the dismissal and reinstatement.

**Questions**

1. Write down questions you have about this case.

Was stealing milo the first offence the employee made

Was it the only time he was caught stealing

1. Do you agree with the decision made by the FWC to reinstate the worker? Explain.

Yes, it is unfair that an employee be dismissed by taking such small item worth such a small amount

1. If you were the employer, what would be your concerns regarding the outcome of this case?

Your have been shamed though the media and the extra money being paid to the employee

1. If you were the dismissed employee, how would you be feeling after this case was resolved?

Happy to have their job back and free compensation

1. What lessons can be learned for employers and employees from this case?

<https://www.smartcompany.com.au/people-human-resources/industrial-relations/the-missing-milo-mystery-coles-loses-unfair-dismissal-case-for-sacking-employee-who-took-home-chocolate-drink-powder/>