

In your circumstances, the sub-regulation, which would otherwise render your conduct a serious misconduct, arguably does not apply, and your conduct may not fall into the legal category of serious misconduct.

1.07 Meaning of *serious misconduct*

- (1) For the definition of *serious misconduct* in section 12 of the Act, serious misconduct has its ordinary meaning.
- (3) For subregulation (1), conduct that is serious misconduct includes each of the following:
 - (a) the employee, in the course of the employee's employment, engaging in:
 - (i) theft; or
 - (ii) fraud; or
 - (iii) assault;
 - (b) the employee being intoxicated at work;
 - (c) the employee refusing to carry out a lawful and reasonable instruction that is consistent with the employee's contract of employment.
- (4) Subregulation (3) does not apply if the employee is able to show that, in the circumstances, the conduct engaged in by the employee was not conduct that made employment in the period of notice unreasonable.
- (5) For paragraph (3)(b), an employee is taken to be intoxicated if the employee's faculties are, by reason of the employee being under the influence of intoxicating liquor or a drug (except a drug administered by, or taken in accordance with the directions of, a person lawfully authorised to administer the drug), so impaired that the employee is unfit to be entrusted with the employee's duties or with any duty that the employee may be called upon to perform.