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RE: Redundancy in the Current Environment

David Berlusconi

Sent: Tuesday, 21 April 2020 10:36 AM

To: John Austin

Cc: Michael Clements

Hi John,

Moving aside from the reasons, my first thoughts are covid-19 or not, we can still go down the redundancy path and that is not really a major issue.

However the question is, are we making the position redundant? Or are we simply using redundancy as a means to tackle a disciplinary issues? If it's deemed we are, we will be open to an unfair dismissal.

If we make them redundant, and they argue the matter, I think it's going to be a hard thing to defend in a tribunal because assuming we are only giving them the government subsidy as a wage payment, then AAG is not really suffering a commercial loss due to having this extra position.

I agree that the jobKeeper doesn't pay for overheads and other things like accruals so yes, I can argue that but it wouldn't be a strong argument. I think the Commission or Court would see this as a disciplinary issue.

Are we actually getting rid of the role completely? If we are, then we can move forward. For example, I suggested to Mark Janus that if his aftermarket role (for Natalie) is moving to a contractor based model like Cumberland Ford (where Tahlia has a Agreement to do this), then yes. It would be a redundancy.

Regards.

David Berlusconi
Human Resources Manager
Australian Automotive Group Pty Limited
60 O'Riordan Street, Alexandria
NSW, 2015, Australia
P | +61 2 9332 8167 F | +61 2 9360 5375
M | +61 417 293 398 E | dberlusconi@aag.com.au

From: John Austin
Sent: Tuesday, 21 April 2020 10:15 AM
To: David Berlusconi
Cc: Michael Clements
Subject: Redundancy in the Current Environment

David,

Obviously, the intention of the Jobkeeper payment was to stop employers considering making staff redundant at this time.

However, there were some decisions at Ryde that had already been made or have been made clearer in the last month in regards to the long term employment of some of the employees. And while there is a level of callousness making these decisions now, leaving them for longer may just have them fester and become harder at a later date. The cold reality at the moment is that nobody can really argue against genuine redundancies when business is struggling as much as it is.

There are 3 cases I would like you to consider.

Ray Jedlicka (Used Car Salesperson) - You have seen correspondence from him that seemed to suggest we were pressuring him to come to work when he had an injury. That was not the case and since that letter we have certainly backed off in regards to anything he could construe as pressure. The reality though is that the Used Car department has not been doing enough numbers (pre -Covid 19) and Michael and I had discussed that the department needed to go from 4 to 3. The only decision we were still working through was whether we took Jason off the top or Ray from the bottom. We had eventually made the decision it was Ray that would go, but he has not been at work since that discussion. I now have to roster him back at work for next month. Can we make him redundant still and how do you think we should handle it?

Dean Jones (Hyundai Manager) - Dean has been a problem since I have been here but not really his work. He is mentally very fragile, seems to have numerous personal issues and these seem to pull him away from work quite often and at times seriously impact his ability to work. When he is right, he is good, but this is just not often enough. The whole Corona Virus thing has just created a new level of paranoia with Dean and when the stand-downs were discussed he

volunteered to be off for the whole month (despite not having any Sick Leave or much Annual Leave left). He left in a hurry and his team felt abandoned by his lack of interest in what was happening to them. They follow him on Social Media and Dean enjoys recreational drugs which he has flaunted on his Instagram for them to see. He has lost the respect of his team. From my perspective, I have felt sorry for him and his issues, but I really can't afford to let those emotions get in the way of the right business decision. The past month has shown me that the team can function without him and from a future view of the business, I would rather put Jason in charge of Hyundai and Used Cars. Ultimately, I think this is a better direction for the business and would rather make this change sooner rather than later. Again, as I am building a roster for the next 4 weeks, how do think we should handle this situation?

Luke McClelland (Business Manager) - he and I seem to have a tumultuous relationship. He feels he has a right to aggressively (and openly) criticise my management of the dealership, and while I try not to be precious about this, I don't think it is conducive to a good working environment. Ryde has functioned with 2 Business Managers for some time. Last October Luke and Belinda Cochrane were my 2 Business Managers. Both Luke and Belinda started making noises late last year that they were going to leave, and based on this I started courting Mick to join us. I did this on the proviso that I thought by employing Mick I could reduce to one Business Manager or at least one and cover provided by a locum. Eventually Belinda resigned and I employed Mick. Despite lots of noise Luke choose not to resign. Only when I mentioned that I was employing Mick to replace Belinda did he formally resign, citing the fact that he didn't believe there was enough work for two Business Managers. I did tell him at the time that I didn't share this opinion. After a couple of weeks, he choose to withdraw his resignation and I accepted this as there was a period where I would have had no Business Manager before Mick started. In hindsight, I shouldn't have done this. He has been nothing but trouble since, and with the on set of the corona virus impact on our business, it has probably crystallised the fact that the dealership (at least in the short to medium term) again could function with one business manager. I know the whole last in, first out rationale doesn't have to be used when making a redundancy, but I am sure that if we head down this path, Luke will expect this. However, I would like to make Luke redundant based on the fact that his performance has not been up to scratch and I think Mick is a better fit going forward. Can you please advise how you would proceed. (P.S. Just been advised that at 10am he is not at work on his first day back after having been stood down for a week).

While redundancies at any time are not pleasant I do believe that going forward (Covid 19 or no Covid 19) these would be the right business decision. The current environment does make it a little more complicated and therefore would appreciate your consideration and advice on how to proceed.

Regards

John Austin
Dealer Principal Brad Garlick Ford/Ryde Hyundai/Ryde Isuzu Ute
Australian Automotive Group Pty. Limited
Phone (02) 9807 2933
Mobile 0418 600 561
Email jaustin@austautogroup.com.au<<mailto:jaustin@austautogroup.com.au>>

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