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FW: Notice of Listing - U2020/8619 - Bruce-Clarke v Australian Automotive Group
David Berlusconi
Sent: Monday, 27 July 2020 12:13 PM
To: [Mark Janus](#)
Cc: [Michael McCauley](#)
Attachments: [PMB FWA Mat Con NoL.pdf \(56 KB\)](#); [PMB FWA Mat Con NoL.doc \(377 KB\)](#); [blake bruce-clake timeline.xlsx \(333 KB\)](#)

Hi Mark,

FYI, I have attached the postponement for the conciliation. It is now listed for 1 August 2020.

I sent through the form 3 reply a few weeks ago and attached is a timeline of facts that I will go by.

If there is anything you want me to add, please let me know. I plan to send this to the conciliator (so she has something to work with) towards the end of the day. Also strategically she can see that we are not fussed on whether this goes to arbitration so she won't put as much pressure on us to pay out more than we need to.

As discussed, 1-2 weeks wages is the limit I will keep in the back of my mind. Had we terminated him for general misconduct, we would have had to pay that amount anyway regardless so I think that is a basis to work from. As long as there are no skeletons in the closet, then I think statistically speaking, we would pay around 4 weeks in an arbitration if he won on a technicality.

Can I ask, Ali said that Blake Potter may have heard him tell Blake Bruce-Clarke, that he needed to speak to Michael. Can Blake Potter call me just to confirm this. I put this is my timeline as per Ali but have not yet spoken to Blake.

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: udt@fwc.gov.au [udt@fwc.gov.au]
Sent: Tuesday, 21 July 2020 9:11 AM
To: David Berlusconi
Subject: Notice of Listing - U2020/8619 - Bruce-Clarke v Australian Automotive Group

Please find attached correspondence regarding the matter U2020/8619 - Bruce-Clarke v Australian Automotive Group.

Please open and read all attachments.

Note: The Notice of Listing has been provided in two formats to support accessibility.

This correspondence was sent automatically from Fair Work Commission.
Please consider the impact to the environment and your responsibility before printing this email. This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the sender.

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AMENDMENT



Notice of Listing

Section: s.394 - Application for unfair dismissal remedy
Title of Matter: Bruce-Clarke, Blake v Australian Automotive Group T/A City Ford Alexandria
Matter Number(s): U2020/8619

Conciliation Details:

The above matter was listed for Conciliation, by Telephone, before a Fair Work Commission conciliator at:

~~09:15 am~~
~~Tuesday, 21 July 2020~~
~~By Telephone~~

THE LISTING(S) HAS BEEN CANCELLED. THE MATTER IS NOW LISTED AT:

11:15 AM
MONDAY, 3 AUGUST 2020
AUSTRALIAN EASTERN STANDARD TIME
(NSW TIME)

NOTE:

Any requests for adjournment of this listing must be made in writing and be based on substantial grounds.

The parties should forward contact telephone numbers to the Fair Work Commission within **7 days** of receipt of this notice.

The parties will be contacted via the telephone numbers they have provided at the time listed above.

The parties do not need to attend the Fair Work Commission.

Inquiries and contact details:

All inquiries relating to this notice are to be directed to Chrishantha Ratnasingh 1800 759 566
Email udt@fwc.gov.au or Facsimile (03) 9655 0401.

21 July 2020 09:09 am

To:

Notified:	Address/fax no.:
Mr Blake Bruce-Clarke	blakebc99@yahoo.com
Mr David Berlusconi Australian Automotive Group T/A City Ford Alexandria	dberlusconi@aag.com.au

Timeline.

Monday, 20 January 2020 Blake left the workplace without advising anyone.

Tuesday, 21 January 2020 Request for Blake to attend a disciplinary meeting was sent.

Wednesday, 22 January 2020 Meeting convened in HR (i.e. my) office. Workshop Controller (Ali) and Michael (Service Manager) were also present.

Blake confirmed he choose not to have a witness, received the invitation to attend the meeting and understood the allegations and contents in the invitation.

Blake admitted to the allegations. He said he had to do his washing and couldn't recall why he never told anyone.

I advised Blake that we considered this conduct as serious and wilful in nature and explained the WHS issues surrounding this. Also if he left without notifying anyone, he would be loo termination, not warning. Blake said he understood our views.

After meeting Michael and I discussed and confirmed with DP - We all agreed and a formal warning issued

During May (job keeper issues) Reports were put forward that Blake refused to overtime and claimed due to job-keeper, he didn't need to. Continually told all staff he would take the business for unfair dismissal and contact the FWO

Monday, 25 May 2020 Blake left the workplace again with notifying anyone.

Tuesday, 26 May 2020 At the request of his service manager, HR Requested for Blake to attend a show cause meeting regarding his employment

Monday, 1 June 2020 Show cause meeting was conducted where Blake confirmed he received approval to leave from the Workshop Controller, Ali twice on the day.

Thursday, 4 June 2020 Blake confirmed the minutes via email - also confirming he understood he was placed on notice in January that the business considered this conduct as SWM

Blake also confirmed he understood termination was a real probability if he did it again but claimed he didn't as Ali gave him approval to leave.

(Refer to the minutes of the meeting in the below TAB - which were confirmed)

Thursday, 4 June 2020 Spoke to Ali later in the day who said Blake was lying. In fact he told him if he left without speaking to Michael, who is the authorised person, he would lose his job.

One other witness was present at the time and Ali also claims to have spoken to Michael at the end of the day advising on the day saying he was supposed to come and speak to him -

Thursday, 4 June 2020 Meet with Michael and Dealer Principal (Mark) - Decision was made to terminate for serious and wilful misconduct.

Discussed the fact Blake had been issued a first and final warning 4-5 months prior for this same issue and understood he would be terminated if he did it again

Additionally - lied about what Ali had said, placed Ali's job at risk , continually ignoring management directives, not cooperating with HR and displaying a poor attitude generally

Mark and Michael are both aware Blake would lodge an unfair dismissal if we terminated him.

Both agreed the business can't tolerate this conduct and Arbitration was necessary so other staff will understand this conduct will be tolerated.

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Re: Minutes from meeting - 01.06.20
Blake Bruce-Clarke [blakebc99@yahoo.com]

You replied on 4/06/2020 2:04 PM.

Sent: Thursday, 4 June 2020 2:02 PM
To: David Berlusconi

Bar the quote from me stating I said I started at 8 when I specifically said I start at 7. Yes everything else is factual

Sent from my iPhone

> On 4 Jun 2020, at 10:47 am, Blake Bruce-Clarke <blakebc99@yahoo.com> wrote:
>
> Not factual, I specifically said I started at 7am and finished at 4 I do not start at 8am I start at 7 am. Also before corona virus and job keeper I was only asked to work 7.6 hours as the company was not paying overtime and as the company still isn't paying overtime the request for me to work overtime is then deemed unreasonable. I urge you to look at the times I have been clocking on and off as reference to the correct hours live been working from 7am-4pm. The fact that I worked overtime in my first year is irrelevant in the relation of working overtime now as the opportunity to work overtime was taken from me. And now is being requested I work the hours without pay.
>
> Sent from my iPhone
>
>> On 2 Jun 2020, at 2:36 pm, David Berlusconi <dberlusconi@aag.com.au> wrote:
>>
>> Hi Blake,
>>
>> I was hoping to hear back from you by now.
>>
>> I will wait a bit longer today but will need to move forward - I will leave you the rest of today to make any amendments if there is anything you need to add to the minutes from the meeting, please do so asap. If I don't hear from you today I will assume there is nothing further that needed to add. As always you can ring me if you have any issues with getting back to me via email.
>>
>> 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: David Berlusconi
>> Sent: Tuesday, 2 June 2020 10:00 AM
>> To: blakebc99@yahoo.com
>> Subject: Minutes from meeting - 01.06.20
>>
>> Hello Blake,
>>
>> Please review my notes taken from our meeting yesterday and reply confirming they are correct and make any advise of any suggested amendments. If you see any issues, please let me know asap.
>>
>> -----
>>
>> * Meeting was conducted on the ground floor meeting room at City Ford Alexandria on 1 June 2020
>> * Blake attended the meeting with his father - Meeting commenced around 9.45 am
>> * Blake confirmed he received the letter requesting him to attend the meeting that I had drafted
>> * Blake confirmed there was a factual error with a date on the letter however he understood the allegations and knew what it was about
>> * David asked Blake if he recalled a previous meeting where I addressed him leaving the premises without permission - Blake said yes, he recalled
>> * David also asked Blake if he recalled that Ali and Michael were also in the meeting - Blake said yes, he recalled.
>> * David also asked Blake if he recalled a formal warning was issued to him for leaving the premises without notifying management nor receiving permission - Blake said yes, he recalled.

>> * David also asked Blake if he recalled that during that meeting I had told him if he left the premises without advising management again, it would be considered serious and will misconduct and likely lead to the termination of his employment. - Blake said yes, he recalled.

>> * David asked whether Blake engaged in the same conduct which is leaving the premises without permission on the day - Blake said words to the following effect;

>>

>> "No, that didn't happen. I got to work at my normal start time and around 8.00 am, when Ali arrived. I told Ali I had to leave at 4.00 pm that day I even went back later that morning and told him again and Ali said yes, ok no problem".

>>

>> * David asked Blake if Ali said no, you were not permitted to leave early - Blake replied saying, no Ali never said that

>> * David asked Blake if Ali said go and get permission from Michael - Blake replied saying, no Ali never said that

>> * David asked Blake why he had to leave given the day before he was given a letter saying if he had to work back, then he needed to and before this, you knew you had to work until 5.00 pm.

>>

>> Blake then said words to the following effect:

>>

>> "I have contacted fair work Australia and they have confirmed that I don't need to work the extra hours. In any event, I can not work the hours because up until 10 July, I have no licence to drive and 4 pm is the time my dad can pick up from work. In any event, it's not like i am doing anything at work that requires me to have a licence and I am only picking up rags most of the day."

>>

>> David replied saying words to the effect:

>>

>> "from what I understand your contract says regular additional hours is a requirement of the job just like every contract in our group states. It is the same across the board, even my own contract has it. You are not being targeted. This is what the entire group is doing, except for yourself. I personally don't think Fair Work Australia got it right and I am more than happy to talk to them on it. But in any event this is besides the point. We are here today to talk about leaving the premises, not overtime".

>>

>> * David asked if there was any other questions to which Blake said that he wanted to work with the group and Ford but had no other questions.

>> * David said I will type out my notes tomorrow and get you to read and confirm.

>> * The meeting was closed at 9.59 pm

>>

>>

>>

>>

>>

>> Regards.

>>

>>

>> David Berlusconi

>> Human Resources Manager

>> Australian Automotive Group Pty Limited

>> 60 O'Riordan Street, Alexandria

>> NSW, 2015, Australia

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