



Facebook rant considered in context

Part 8

- Value Logistics fired Lynn Robertson for stating: “Amazing ladies, I have been retrenched ... 20 years and now good bye, no prior notification.”
- Ms Robertson only realised her comment went public when she received messages of support the next day. She immediately removed the comment. Besides being retrenched, she suffers from throat cancer and her husband is already on pension.
- Instead of dismissing her the company placed her on a disciplinary enquiry and dismissed her for her social media misconduct.

My questions?

- Should the company have made this move especially in light of the fact that retrenchment is a no fault dismissal?
- Is the comment defamatory? Who gets to decide what is defamatory or not?
- Does the Facebook rant bring the company into disrepute or is it the company’s reaction to it that brought it into disrepute?
- Are employee’s allowed to make mistakes on Facebook? Should employee’s be given a chance to remedy the mistake?

My Answers:

- Hindsight is 20/20 vision, retrenchment is a traumatic process and an outburst or expression of hurt should be taken within the spirit, purport and object of the process. It seems as if the company was being mischievous as such with the Facebook rant one could possibly mitigate the financial pay out of 20 years of service by a misconduct dismissal.
- The commissioner found that the Facebook rant was not defamatory.
- Remember Clive Naidoo who was pulled over by a female JMPD officer on 28 August 2015? (If not see <https://www.youtube.com/watch?v=0YzNVw8uc9c>). Mr Naidoo posted the video on you tube and it back fired on him. I submit the Value Logistics scenario is similar.
- In this scenario the employer should have taken into account the traumatic time Robertson faced and forgiven her, she should not be prevented from discussing the matter with friends or others who could offer support. At Moni Attorneys we assess your risk and forecast solutions Visit us: www.moni.co.za or call 011 646 4558. © Moni Attorneys August 2015