

Commonwealth Bank v Reeve [2012] FCAFC 21

Key Points

- The Full Federal Court's decision is the current authority on what constitutes "*administrative action in respect of an employee's employment*" for the purpose of section 5A of the *Safety, Rehabilitation & Compensation Act 1988* (Cth) (**SRC Act**).
- In determining whether an action is **administrative**, the considerations are:
 - The action must be an **administrative action** and not an action in relation to the employee performing their ordinary duties under their contract of employment.
 - It must be an action such as:
 - any of the actions set out in section 5A(2) of the SRC Act, or
 - the taking of steps under the employee's contract of employment.
 - The action taken must be **in respect of** the employee's employment.
 - This means that there must be a relational context between the action taken and the **individual's** employment. The action must be directed specifically at the employee.
 - Action taken in respect of a class of employee's will not be action taken in respect of an **individual** employee's employment.
 - The phrase "*employee's employment*" includes incidents or actions of the employee performing their work or as part of their duties or activities as an employee. However, the action must still be addressed to the employee individually and be administrative in character.
 - The action will not be administrative if it only affects an ordinary feature of the employee's work, workplace or environment.
 - To define, delimit or supervise the employment, job or task entrusted to the employee or to give directions to the employee as to how and when they perform their day to day work is **not** administrative action.
- If the action is administrative, you must then consider whether the action was reasonable **and** taken in a reasonable manner.