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Attwaters' Employment Update

Are you aware of your risk?

In a recent decision by the Court of Appeal an employer was held liable for an employee who stole from a client. The facts of the case were that only the employer and employee were authorised access to the client's property. The employee after undertaking their duties in the course of their employment returned at a later time and stole some of the client's goods. The Court of Appeal considered that the risk of theft by the employee was reasonably incidental to his duties. The employer was found to be liable for their employee's actions as there was a "sufficiently close connection" between the theft and his duties.

This is a concerning judgment from the courts and employers need to be aware that even though they may have put in place risk assessments against such thefts or other such circumstances they may be ultimately liable. This raises the issue of the need for appropriate insurance and even clauses in contracts of employment or amendments to contracts for specific work where an employee will provide an indemnity to the employer for any wrongdoing such as theft. How effective such clauses would be is open to speculation as an employee who has stolen in all likelihood will be unwilling to pay up should their actions be discovered.

Should you wish any further information concerning this article or any other employment matters please contact Tim Carter by clicking on the button below.

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