



TASMANIAN INDUSTRIAL COMMISSION

CITATION: John Grief v Minister administering the State Service Act 2000/Tasmanian Health Service [2026] TASIC 43

PARTIES: John Grief (Applicant)

Minister administering the State Service Act 2000 (Respondent)

SUBJECT: Industrial Relations Act 1984, s 29(1A) application for hearing of an industrial dispute

FILE NO: T15275 of 2025

HEARING DATE(S): 18 March 2026 (Barclay, P), 25 August 2026 (Abey, C)

HEARING LOCATION: Tasmanian Industrial Commission, Hobart/Teams

DATE REASONS ISSUED: 21 September 2026

COMMISSIONER: Commissioner T J Abey

CATCHWORDS: Unfair termination – extension of time to file application - was a fixed-term contract of employment in existence – administrative shortcomings - exceptional circumstances – extension denied – application dismissed

REPRESENTATION:

The Applicant in person

Lucas Digney for the Respondent

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**JOHN GRIEF v MINISTER ADMINISTERING THE STATE SERVICE ACT
2000/TASMANIAN HEALTH SERVICE**

REASONS FOR DECISION

HOBART, 21 SEPTEMBER 2026

[1] This is an application lodged pursuant to s 29(1A) of the *Industrial Relations Act 1984* (the Act) whereby the Applicant asserts that he has been unfairly terminated from his position as a Registered Nurse at the Royal Hobart Hospital (RHH). This decision concerns the discrete question as to whether the application was lodged within the statutory time limit (21 days from the date of termination), or in the alternative, whether exceptional circumstances exist justifying an extension of time.

[2] The application was heard by President Barclay on 18 March 2026, at which time the President reserved his decision. President Barclay's term expired before he was able to finalise the matter. Subsequently the file was reallocated to me. At the invitation of the Commission, the parties made further written submissions, and a further hearing took place on 25 August 2026. I have read the file in its entirety, including the transcript of proceedings before President Barclay.

Contextual background

[3] This matter has its complexities, and it is helpful to outline some contextual background and timelines as an aid to understanding.

[4] The Applicant has been employed as a Registered Nurse in the RHH casual pool from 23 April 2012 until 14 November 2021. Then followed what the Applicant described as a period of hiatus from RHH employment for reasons I understand were a consequence of the Covid Mandate then in place.

[5] The Applicant was re-employed on a casual fixed-term basis by virtue of an Instrument of Appointment (IOA) for a term from 1 March 2023 until 31 August 2023.

[6] What happened next is not entirely clear and is discussed in greater detail later in this decision. Suffice to say, the Respondent contends the fixed term contract was extended until 31 August 2025.

[7] On 23 October 2024, certain allegations were made against the Applicant resulting in his immediate suspension.

[8] In correspondence dated 23 November 2024, the Respondent advised of an Intention to Investigate Alleged Breaches of the Code of Conduct. (ED5 Investigation).

[9] On 5 February 2025, Australian Health Practitioner Regulation Agency (AHPRA) suspended the Applicant's registration as a nurse. So far as the Commission is aware, the suspension remains in place.

[10] On 17 March 2025, Police charges were laid against the Applicant. It is fair to say that the Police charges and the ED5 allegations were essentially the same. During the ensuing period, there was debate and correspondence concerning tensions between the ED5 process and the criminal charges. The Applicant on the one hand wished to remain silent so as to not prejudice the potential criminal trial, whereas the Respondent contended that it was obliged to continue the ED5 process which had a different standard of proof. The Applicant submitted a

plea of Not Guilty in the Criminal proceedings, and the charges were subsequently dropped some 8 months later.

[11] On 27 August 2025, the Applicant lodged an application for review of any other State Service action pursuant to s 50(1)(b) of the State Service Act 2000 (matter number RO9 of 2025-26). The substance of this application was to seek suspension of the ED5 process until finalisation of the criminal proceedings in the Supreme Court.

[12] On 31 August 2025, the purported fixed-term contract came to an end through the effluxion of time.

[13] On 11 September 2025, the Respondent filed written submissions seeking to have RO9 dismissed on the grounds that “the ED5 process is and continues to be conducted in accordance with law and procedural fairness.”

[14] On 8 October 2025, the Respondent filed further submissions in which, it was contended, that the fixed-term contract had ended on 31 August 2025 and hence the Applicant ceased to be an employee. Further, whilst the RO9 application was validly made at the time, the Commission now lacks practical jurisdiction to make meaningful orders. The Commission’s powers under s 50 of the State Service Act 2000 are confined to employment related actions. As a consequence, the Respondent requested that the Commission dismiss the RO9 application.

[15] On 29 October 2025, the Applicant filed the s 29(1A) application which is the subject of the current proceedings. Amended particulars were filed on 17 November 2025.

[16] The RO9 application was the subject of a conciliation conference before Barclay P on 11 November 2025 at which time the matter was adjourned sine die and directions were issued in relation to T15275.

[17] On 25 November 2025, the criminal charges in the Supreme Court were formally withdrawn.

[18] This matter was the subject of a formal hearing before President Barclay on 18 March 2026, at which time the President reserved his decision. Following re-allocation of the file there was a further hearing before the Commission as presently constituted on 25 August 2026.

[19] Not all the above is strictly relevant to the issue before me but is provided for the sake of completeness and as an aide to understanding the inter-relationship between the several processes in play.

Was a fixed-term contract in place as at 31 August 2025?

[20] The hearing before President Barclay on 18 March 2026 focussed squarely on the existence of a fixed-term contract which purported to end on 31 August 2025. At the conclusion of the hearing, the Respondent undertook to provide a copy of the relevant IOA. It turns out that the IOA in question provided for a fixed-term contract which commenced on 1 March 2023 and ended on 31 August 2023. This, on its face, appeared inconsistent with the material before President Barclay and caused the Commission to write to the parties on 7 August 2026 as follows:

Commissioner Abey has perused the file with the view of determining the discrete question of whether the application was lodged within the statutory 21-day time limit,

and in the alternative, were there exceptional circumstances justifying the grant of an extension of time.

Proceedings before President Barclay on 18 March 2026 focussed squarely on the existence of a fixed term contract which was purported to expire on 31 August 2025. At the conclusion of these proceedings the Respondent undertook to provide a copy of the relevant Instrument of Appointment.

Under cover of correspondence dated 18 March 2026 an Instrument of Appointment was provided, which states that the appointment was for the period 1 March 2023 until 31 August 2023.

In a submission dated 16 July 2026, the Applicant contends that he continued to work until 24 October 2024, at which point allegations were made which subsequently led to an ED 5 investigation. The Applicant further contends that the employment relationship was (or is) continuing and indefinite with no expressed or implied end date.

In order to determine the “out of Time” issue, I need further information as to the following questions:

1. Is there in existence an Instrument of Appointment which expires on 31 August 2025?
2. If the answer to 1 is No, what then is the significance of 31 August 2025?
3. Depending on the answers to 1 and 2 above, when, if at all, did a termination of employment take effect from?

In the circumstances the Commissioner sees no alternative but to convene a hearing (via Teams) to hear submissions and/or evidence in relation to these discrete questions alone.

A notice of listing is attached.

In the meantime, the parties are invited to provide any additional information which might assist in determining these questions.

[21] By email dated 18 August 2026, the Respondent advised:

- Q1. There is no IoA. I’ve had a conversation with Payroll and Recruitment, and they have advised that the most recent casual contract they have on file is the same as previously provided. Position 523073 RN G3 Y9. However, they do have a note to say that on the 1 September 2023, whereby the contract was extended until 31 August 2025 in the same position number and the same salary, however no IoA recorded.
- Q2. As above, the fixed-term appointment was extended to 31 August 2025.
- Q3. Termination took effect of 1 September 2025.

[22] The attached page up note records a position start date of 01 September 2023 and an end date of 09 December 2023. Elsewhere on the document there is reference to a contract expiry date of 31 August 2025. Under the field titled “narrative” there is a notation, “Contract extension only – RD.”

[23] In correspondence dated 20 August 2026, the Applicant contested the integrity of this document, in particular the contract expiry date.

[24] A further hearing took place before me on 25 August 2026 dealing with this discrete issue.

[25] It is not clear when this document was created and under what authority. I am satisfied however that the purported extension until 31 August 2025 was not communicated to the Applicant, at least not in any formal sense. I find this to be quite extraordinary. In my mind a contract extension of any magnitude, let alone two years, should be conveyed in writing to the person concerned.

[26] I am also troubled as to how this purported extension sits with requirements of Employment Direction 1 (ED1). Section 9.2.b. of ED1 provides that “where the initial period of appointment to undertake the fixed-term duties is up to and including 12 months, the total length of any additional appointments are not to exceed the length of the initial appointment”. On the face of it, this would limit a contract extension for the Applicant to a period of 6 months.

[27] The Applicant further contends that he was entitled to have his employment status changed from fixed-term casual to permanent pursuant to s12B of ED1. I agree with the Respondent that, whilst the Applicant may have had an entitlement to seek such a change, the process of assessment needed to be initiated by either the employee or employer. There is no evidence that this happened in this case.

The Golden email exchange

[28] On 13 May 2025 there was a significant email exchange between the Applicant and his Nurse Unit Manager, Mr David Golden (the Golden Emails). The Applicant wrote:

Hi David

Can you look into my suspended contract being cancelled because of some 90 day inactivity clause.

Thanks

John

[29] I interpose. Presumably this question was raised in light of the IOA covering letter, which states, *inter alia*, that an absence of 3 months will result in cessation of employment. Mr Golden responded:

Hi John,

I hope you're doing ok. Please ignore those emails. They are bulk communications sent to all casual staff. I have secured your contract renewal and you should not receive any more of those emails. You may receive bulk emails regarding PDAs and mandatory training and their requirement to ensure your contract continues. You do not need to action these either while your contract/registration is suspended. You can rest assured your contract will be renewed in August with no further action from yourself.

Is there anything else I can help you with?

Regards,

David Golden

[30] The Applicant's evidence in relation to this email is:¹

Now, Mr Digney was also following those directions, and he submitted that, I think, on the 18th – on the 18th. That's 18 days after the expiry of my contract. Now, I had an explicit assurance of renewal, and that 30 is the email – do you have a copy? I have a copy here for you, Mr President. If you would like a moment to familiarise yourself with that –

PRESIDENT: Yep.

MR GRIEF: It's fairly explicit, isn't it, Mr President? Admittedly, it was – I was asking the question, "What happens when this 90 inactivity clause kicks in?", and I believe my – my line manager communicated to me that he had – he had gotten – he had secured – secured my contract renewal. Okay. So now I understand that that doesn't really amount to a whole hill of beans as far as legality goes, but it did put me into a state of mind when I – where I was understanding that there was an intention from the department to – to afford me employment status until at least the end of the ED5, and Mr Digney has established there was a –

PRESIDENT: It doesn't say that.

MR GRIEF: This is in my mind.

[31] In his submission dated 17 March 2026, the Applicant stated:

I refer to the evidence (appx) of the email from my line manager. This was the last word I had from the Department on the matter of my contract expiry. It was the answer to the specific question *What was going to happened* [sic] *when my contract expired*, albeit for a 90 day inactivity clause. To which, the explicit assurance was given that my contract would be renewed upon its end date without further action on my part.

This shows evidence of the Department's *intentions*. It is inconceivable that my manager would have given me this assurance unilaterally, especially not in such an important matter such as my suspension and ED5 investigation.

I had the reasonable assumption that my contract was not simply going to be allowed to expire. The department ought to have notified me in writing as to the contrary.

[32] In its submission dated 14 January 2026, the Respondent states:

The Applicant relies upon an email from Mr David Golden, Nurse Unit Manager, as assurance of renewal. Under SSA s 37(1), appointments are made by the Employer (Minister) and only persons with proper delegation may appoint or renew. Unit managers do not possess appointment delegation unless expressly conferred.

An informal assurance cannot vary an instrument, constitute an offer of appointment, or override s 37(5). The email has no binding legal effect and cannot create a

¹ Transcript 18 March 2026 p9, I30 to p10, I5.

reasonable expectation of ongoing or continuing employment where renewal was conditional on meeting essential criteria which was not held at the relevant time.

[33] Mr Digney's evidence is:²

The applicant has referred to an email and an assurance, or a so-called assurance in that email from the nurse unit manager, Mr David Golden. As we've previously submitted, President, Mr Golden held no delegation to make employment commitments and informal comments cannot override any statutory requirements.

The belief on the part of the applicant was – could be viewed to be objectively unreasonable, due to the fact that the instrument had an express expiry date, and that there was now follow-up to that email, President, so on the – on the – on the 13th of May, the applicant already expressed uncertainty about the renewal of that contract. He received a response which – which may well have eased some of his concerns at that time

...

Mr Golden responded, advising the applicant not to worry and things were in hand, President, but there's no evidence of any follow-up to that email in the run up to the 31st of – of August, which of course, we say is the date of termination.

The understanding of the parties

[34] The administrative and management shortcomings in relation to this contract of appointment are profound to say the least. I refer to the following:

- The absence of any communication to the Applicant when the contract extended, and the uncertain date as to when this occurred.
- The distinct possibility that the original IOA was allowed to "run on" after its expiry date.
- The lack of evidence as to the authority for the extension.
- The apparent inconsistency with ED1.
- The absence of any notification, formal or otherwise, to the Applicant to the effect that the fixed-term contract would end on 31 August 2025 and would not be renewed.

[35] These shortcomings are not necessarily fatal to the existence of a fixed term contract ending on 31 August 2025. The critical question is the understanding of the parties.

[36] I am satisfied that the Respondent was aware of the existence of such a contract if only for the reason there is no evidence to suggest otherwise.

[37] In a submission dated 16 July 2026, the Applicant stated:³

I have contracts dated 20 Feb 2023, 6 March 2023 and 4 May 2023. The last one asks me to disregard the previous contracts and states my appointment period is 1 March 2023 until 31 August 2023. Evidently this is the last IOA the Department issued to me. I have nothing else in my personal records and no entry for my appointment has been made into the State Service Gazette. That long expired contract is what was tended as evidence of the IOA in effect by the Department.

² Ibid p5, l29 to p6, l10.

³ Applicant submissions [1]-[3].

From the end date of that contract until the day of the allegations on 24 October 2024, a second full year term had passed and I was working my third textitwithout [sic] having signed another contract in actual. This is after my hiatus from the RHH, whereupon I was re-hired when the CoViD vaccine mandate was quietly dropped.

I contend that the employment relationship was continuing and indefinite with no expressed or implied end date i.e. permanent.

[38] I am unable to accept this submission for the following reasons.

[39] Firstly, there was no doubt expressed by the Applicant in proceedings before President Barclay on 18 March 2026. The position now contended by the Applicant only arose after the IOA was provided to the Commission shortly after the conclusion of the hearing. Perhaps surprisingly to everyone, this IOA had an end date of 31 August 2023.

[40] Secondly, if the Applicant was of the mind that his contract was ongoing and indefinite, why did he raise the possibility of his suspended contract being cancelled with his Nurse Unit Manager, Mr Golden, on 13 May 2013?

[41] I conclude that the Applicant was aware of the existence of a fixed-term contract with a purported end date of 31 August 2025.

When did the employment relationship cease?

[42] The Respondent submits that the employment relationship ended on 31 August 2025 through the effluxion of time of the fixed-term contract. The Respondent accepts that it is not necessary under the Act for a termination to be at the behest of the employer, only that there was a termination.⁴ This is consistent with the authority of Underwood CJ in *Port of Devonport Authority v Abey*.⁵

[43] The Respondent further submitted that, because the Applicant's AHPRA registration had been suspended, it could not lawfully reappoint the Applicant or renew the contract.

[44] The Applicant did acknowledge that the fixed-term contract ended on 1 September 2025.⁶ However, referring to the Golden email exchange and the RO9 application, the evidence of the Applicant is:⁷

... Now, I did submit the previous application, which was the RO9, the review of State Service action, so I had asked the Commission to review a disciplinary process, and thereby halting it.

And the email that I had was – it was quite a shock, actually, to – to understand that my contract had – that the department had reversed their intentions, and I – I believe that was evidence – the email was evidence of the stated intentions of the department, because it is – it's inconceivable that my line manager, who is a professional, would have acted unilaterally to, you know, just pull some assurance out of his mind, you know, and just hand it to me, just to make me feel a little bit better about myself. I think

⁴ Transcript 18 March 2026 p2.

⁵ [1992] TASSC 62

⁶ Transcript 18 March 2026 p11, l15.

⁷ Ibid p10, l15-35.

that was – I think – I think it was – I think he was just communicating a department intention.

Now, I had a reasonable – I think it was – my submission is that it was a reasonable assumption that my contract was not simply going to be allowed to expire, and the department ought to have notified me in writing as to the contrary, because it was, you know, a reversal of their – or their expressed intention. And if I ought to have known that my contract was going to expire and that this was, you know, not a legal – legally binding assurance, then they ought to have known to notify me. But they didn't notify me.

[45] I agree with the Applicant that the Respondent should have formally notified him that the fixed-term contract would end on 31 August 2025 and not be renewed. It is a matter of common courtesy, if nothing else. The fact is that the Respondent did not do so. Regrettably as this may be, it does not alter the legal reality that the contract came to end on that date through the effluxion of time.

[46] The Applicant submitted that:⁸

I contend that my notice of termination came in the form of the respondent's submission on the 8 October 2025, as directed by the Commission. Up until then I reasonably relied on the email from my line manager (Appendix) to inform myself of the status of my impending contract and date. To wit; that I was assured my contract

[47] Further, the Applicant contends that the 8 October 2025 date ought to be considered as the start of two weeks' notice of termination as required by the relevant Award.

[48] The Respondent's submission of 8 October 2025 relevantly reads:⁹

As of 1 September 2025, the Applicant ceased to be an employee and by way of expiration of the previous fixed term instrument of appointment and no further instrument being executed by the parties, the Applicant is not now an employee as defined.

[49] In my view this cannot be construed as a formal notice of termination. It is a statement from the Respondent of something that has happened previously.

[50] I also agree with the Respondent to the extent that the notice provisions in the Award only apply to a termination at the behest of the employer. Such is not the case in this matter. Notwithstanding the serious administrative and management shortcomings referred to earlier in this decision, I conclude that the employment relationship came to an end on 31 August 2025.

Are there Exceptional Circumstances which Justify an Extension of Time?

[51] Section 29(1B) of the Act states that application for a hearing in "respect of an industrial dispute relating to termination of employment ... is to be made within 21 days after the date of termination, or if the Commissioner considers there to be exceptional circumstances, such further period as the Commissioner considers appropriate.

[52] This application was lodged on 29 October 2025, clearly outside the 21-day time limit. The question, therefore, is whether there are exceptional circumstances which justify an extension of time.

⁸ Witness statement of John Grief dated 17 December 2025 [1].

⁹ Respondent submissions of RO8 of 2025-26.

[53]

The authorities

The approach of the Commission to extension of time applications is found in *Izard v R G Simons as Trustee for R G Simons Family Trust*.¹⁰ After reviewing the leading authorities the Commission concluded that the relevant matters for consideration are:¹¹

- The length of the delay.
- The explanation for the delay.
- The prejudice to the applicant if the extension of time is not granted.
- The prejudice to the respondent if the extension of time is granted.
- Action taken by the applicant to contest the termination, other than applying under the Act.
- Any relevant conduct of the respondent.
- The nature and circumstances of any representative error.
- The applicant's prospect of success at the substantive hearing.

[54] Further, the Commission found that these considerations are underpinned by the following principles:¹²

- *Prima facie* the time limits should be complied with. There is public interest in the prompt institution and prosecution of litigation before the Commission.
- Ignorance of the law is no excuse.
- The onus rests on the applicant to demonstrate sufficient reason to justify an extension.
- Each case must be considered on its own facts and circumstance.
- The mere absence of prejudice to the respondent is an insufficient basis to grant an extension of time.
- The discretion to allow out of time applications is directed towards ensuring that justice is afforded to both parties.
- Considerations of fairness as between the applicant and other persons in a like position are relevant to the exercise of discretion.

[55] There is no definition of *exceptional circumstances* in the Act. I am guided however by the Full Bench observations in *Nulty v Blue Star Pacific Pty Ltd*.¹³

The expression 'exceptional circumstances' has its ordinary meaning and requires consideration of all the circumstances. To be exceptional, circumstances must be out of the ordinary course, or unusual, or special, or uncommon but need not be unique, or unprecedented, or very rare. Circumstances will not be exceptional if they are regularly, or routinely, or normally encountered. Exceptional circumstances can include a single exceptional matter, a combination of exceptional factors, or a combination of ordinary factors which, although individually of no particular significance, when taken together are seen as exceptional. It is not correct to construe 'exceptional circumstances' as being only some unexpected occurrence, although frequently it will be. Nor is it correct to construe the plural 'circumstances' as if it were only a singular occurrence, even though it can be a one-off situation. The ordinary and natural meaning of 'exceptional circumstances' includes a combination of factors which, when

¹⁰ T11310 of 2004.

¹¹ Ibid [30].

¹² Ibid [31].

¹³ [2011] FWA 975.

viewed together, may reasonably be seen as producing a situation which is out of the ordinary course, unusual, special, or uncommon.

Length of delay

[56] The application is 38 days out of time, which is a significant delay.

Explanation for the delay

[57] Whilst the evidence points to some level of confusion as to the actual date of termination and the impact, if any, of the RO9 application, I have gained the impression that major reason for the delay, in the mind of the Applicant, was his apprehension relating to the then upcoming Supreme Court criminal proceedings (Note: these charges were subsequently dropped).¹⁴

COMMISSIONER: Yes, I can see that. I sort of have a feel for how this arrangement might work. Mr Golden responded, and you're very familiar with his response. He concludes by saying:

You do not need to action these –

– he's referring to his bulk emails –

– either, while your contract registration is suspended. You can rest assured your contract will be renewed in August with no further action by yourself.

Now, I know there's a debate about whether or not Mr Golden had the authority to state that, but it is fairly unequivocal what he states there, and he's referring to a contract to be renewed on the 31st of August 2025. Did you take any steps on or about August 2025 to inquire as to the status of your contractual arrangement?

MR GRIEF: No, I was worried about going to gaol.

COMMISSIONER: All right.

MR GRIEF: No, I had other things on my plate.

COMMISSIONER: Yes.

MR GRIEF: I didn't really think about much past the criminal matter.

COMMISSIONER: Yes. Okay. I don't know that we can take this any further. Are there any final observations from either party? Mr Digney?

[58] Whilst this apprehension is understandable, there is no evidence that it was of such a nature as to prevent the Applicant from lodging a s 29(1A) application.

Prejudice to the Applicant if the extension of time is not granted.

[59] In a submission dated 17 December 2025 the Applicant stated:

¹⁴ Transcript 25 August 2026 p9 l1 to l31.

15. This unfair termination application may in fact be redundant, given the underlying reason for the original application; The ED5 process was prejudicial to the criminal trial, had

been alleviated because of abandonment of the criminal proceedings against the Applicant. Numerous submissions have henceforth been made to the ED5 process without risk in that regard.

16. The matter became intricate in the interim time period, however and the continued involvement of the Commission is justified because of the risk of a finding and outcome from the ED5 process, without Natural Justice rights of appeal.

17. The unfair dismissal application will rely on the flawed ED5 process to show that there was an implied and unfair termination. The Department opting for non-renewal for their stated valid reason, over the expediency of Extending the existing contract, which would not have been precluded. Department intentions to renew the contract can be shown in evidence with the email assurance and yet these changed when the first application was made to review the ED5 process. I respectfully submit that, was there been no reasonable prospect of success with the RO9 application, the Department would seek to have this heard and dismissed by the Commission. Rather, the Department is somewhat exposed by their Adverse Action and has, understandably sought to have the complaint dismissed for technical legal reasons rather than merit, which their case lacks.

Prejudice to the Respondent if the extension of time is granted

[60] There is no evidence of any prejudice to the Respondent.

Action taken by the Applicant to contest the termination, other than applying under the Act

[61] Other than the Golden email exchange, there is no evidence that the Applicant took any particular action to contest the termination other than to lodge the s 29(1A) application on 29 October 2026. I note that the Applicant took no action to confirm the Golden undertaking any time prior to 31 August 2026. The Applicant did lodge the RO9 application on 27 August 2026, but this related to the ED5 investigation, not the termination of employment.

Any relevant conduct of the Respondent

[62] The Respondent did not at any stage advise Applicant that his contract would not be renewed or extended. This in my view was both discourteous and, in light of what I understand to be past practice in relation to renewal of casual pool contracts, reprehensible.

The nature and circumstances of any representative error

[63] The Applicant was self-represented. Representative error does not arise.

The Applicant's prospect of success at the substantive hearing

[64] The Full Bench decision in *Minister administering the State Service Act 2000/Department of Health v Prasad*¹⁵ is authority for the proposition that a valid reason is not required when a fixed-term contract expires through the effluxion of time. However, this does not preclude a consideration of fairness under s30(6) of the Act. The onus of proving that the termination was unfair rests with the Applicant.

¹⁵ T14689 of 2019

[65] I have referred previously to the significant administrative and management shortcomings which have attended the various facets of the Applicant's contract of employment. Having regard to these shortcomings, I conclude that the Applicant would have an arguable case in respect of unfairness. I put it no higher than that.

Conclusion

[66] The Applicant is understandably aggrieved as to various events over the term of his contract of employment.

[67] Notwithstanding, a s 29 application alleging unfair termination is not an onerous process. Whilst there is a Commission initiated form, it is neither prescribed nor mandatory. In fact, it requires no more than a brief email to activate jurisdiction. In this case the application is significantly out of time. The Applicant has failed to advance a compelling reason as to why he was unable to lodge the application in a timely manner. It follows that the Applicant has failed to establish the existence of exceptional circumstances.

[68] Accordingly, the application for an extension of time is denied.

[69] Pursuant to s 21(2)(c) of the Act, the application is dismissed.



Tim Abey
Commissioner