



BUSINESS SERVICES TAILORED TO YOUR NEEDS

**NEWSLETTER
DECEMBER 2014**

As always, we are all due for a well-earned break for the summer holidays. For most of us it's a chance to spend time with family and good friends, relax and unwind. To make sure that you make the most of this time here are a few tips, notes or ideas that will make your time even more stress free.

Make sure you get the holiday pays right.

Holiday and statutory entitlements are calculated on average weekly earnings for an employee. This means if the employee always works more than 40 hours then he is paid his average earnings. The Department of Labour website has useful information. <http://www.dol.govt.nz/>

If you are using a computer based system, don't assume this is correct! The payroll system needs to have the correct settings, better to check now than end up with a complaint.

FEESMART - ANOTHER PAYMENT OPTION FOR YOUR CONVENIENCE

We know there is never a good time to pay an account, so we have arranged with feeSmart to make paying your account with us a whole lot easier.

Using feeSmart to pay accounts of \$500 and over provides you with finance spread over 6 to 12 months depending on your circumstances.

If you want to take advantage of this option please contact Jane, Dru or Emma who will assist in setting this up.

<http://www.feesmart.co.nz/>

DRINK DRIVING - AN IMPORTANT NOTICE

From the 1st of December 2014 significant changes will be introduced to NZ Drink Driving limits.

Drivers who fail an evidential breath test between 251 and 400 mg/litre will be fined \$200 and incur 50 demerit points (100 demerit points results in a loss of license for three months)

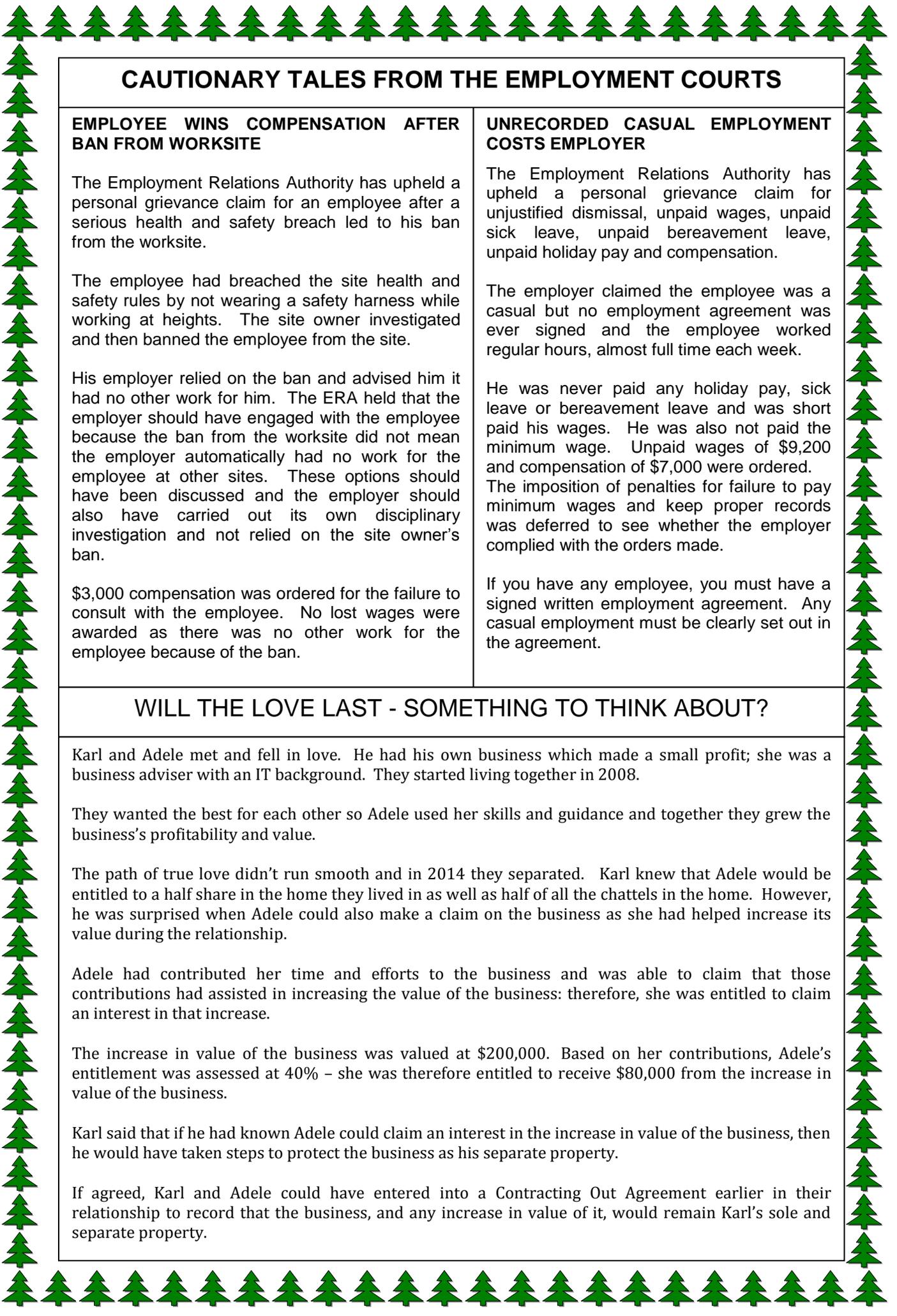
Drivers who are over the 400 micrograms threshold will face criminal prosecution and the sanctions that currently stand.

If you are under 20 years of age or on a restricted license the zero alcohol limit that is currently in place remains.

The new lower threshold (250 – 400 micrograms) means that most people will be able to consume **only one standard drink** in an hour (330ml of beer, 100ml of wine, 32 ml of spirits) and be able to legally drive without penalty.

The police estimate that in the first year there will be an additional 19,000 offences!





CAUTIONARY TALES FROM THE EMPLOYMENT COURTS

EMPLOYEE WINS COMPENSATION AFTER BAN FROM WORKSITE

The Employment Relations Authority has upheld a personal grievance claim for an employee after a serious health and safety breach led to his ban from the worksite.

The employee had breached the site health and safety rules by not wearing a safety harness while working at heights. The site owner investigated and then banned the employee from the site.

His employer relied on the ban and advised him it had no other work for him. The ERA held that the employer should have engaged with the employee because the ban from the worksite did not mean the employer automatically had no work for the employee at other sites. These options should have been discussed and the employer should also have carried out its own disciplinary investigation and not relied on the site owner's ban.

\$3,000 compensation was ordered for the failure to consult with the employee. No lost wages were awarded as there was no other work for the employee because of the ban.

UNRECORDED CASUAL EMPLOYMENT COSTS EMPLOYER

The Employment Relations Authority has upheld a personal grievance claim for unjustified dismissal, unpaid wages, unpaid sick leave, unpaid bereavement leave, unpaid holiday pay and compensation.

The employer claimed the employee was a casual but no employment agreement was ever signed and the employee worked regular hours, almost full time each week.

He was never paid any holiday pay, sick leave or bereavement leave and was short paid his wages. He was also not paid the minimum wage. Unpaid wages of \$9,200 and compensation of \$7,000 were ordered. The imposition of penalties for failure to pay minimum wages and keep proper records was deferred to see whether the employer complied with the orders made.

If you have any employee, you must have a signed written employment agreement. Any casual employment must be clearly set out in the agreement.

WILL THE LOVE LAST - SOMETHING TO THINK ABOUT?

Karl and Adele met and fell in love. He had his own business which made a small profit; she was a business adviser with an IT background. They started living together in 2008.

They wanted the best for each other so Adele used her skills and guidance and together they grew the business's profitability and value.

The path of true love didn't run smooth and in 2014 they separated. Karl knew that Adele would be entitled to a half share in the home they lived in as well as half of all the chattels in the home. However, he was surprised when Adele could also make a claim on the business as she had helped increase its value during the relationship.

Adele had contributed her time and efforts to the business and was able to claim that those contributions had assisted in increasing the value of the business: therefore, she was entitled to claim an interest in that increase.

The increase in value of the business was valued at \$200,000. Based on her contributions, Adele's entitlement was assessed at 40% - she was therefore entitled to receive \$80,000 from the increase in value of the business.

Karl said that if he had known Adele could claim an interest in the increase in value of the business, then he would have taken steps to protect the business as his separate property.

If agreed, Karl and Adele could have entered into a Contracting Out Agreement earlier in their relationship to record that the business, and any increase in value of it, would remain Karl's sole and separate property.