

## Can You Be Fired For Doing “The Chicken Dance” At Work?

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It is challenging to find a blog idea involving employment law and turkey (search engines come up with articles on the employment laws of Turkey). So our labor law lesson of the day involves chicken instead, and comes from Sydney, Australia, where you can't be fired, it seems, for an allegedly intimidating workplace performance of “The Chicken Dance.” The employer, Harbour City Ferries, discharged a 51-year-old male employee and cited as one of its reasons that he had performed “The Chicken Dance” as an intentional act to intimidate, harass, or otherwise harm another employee, as [reported in the Sydney Morning Herald](#). But a labor appeals commissioner for the Fair Work Commission ruled recently that the employer went too far. He ordered the employee to be reinstated, determining that the stated reason “was fanciful and did not represent reason for dismissal.” Rather, the employee should have received a final warning for other behavior, which reportedly included making “a highly inappropriate racial insult” to another co-worker in the lunchroom. The commissioner found fault with the employer for its investigation of the employee because the employer accepted the word of other employees and may have discounted the employee's side of the story because he had “a somewhat disagreeable” demeanor. “Even unpleasant people are entitled to justice,” the commissioner said, according to the newspaper report. But it should be noted that Fair Work Australia's ombudsman's site has a [link to facts about workplace bullying and harassment](#) that indicates “everyone has a right not to be bullied or harassed at work.” It goes on to state: “Whether a behavior is unreasonable can depend on whether a reasonable person might see the behavior as unreasonable in the circumstances.” So if you must perform “The Chicken Dance” at work, be sure the circumstances are reasonable. Like maybe at the holiday party, but not in a harassing manner. For those who are interested in the full text of the Fair Work Commission ruling - which contains some delightfully legalistic descriptions of “The Chicken Dance” evidence at issue in the case, it is available [here](#).

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