

Working from home or hardly working?

When WFH corner-cutting becomes misconduct

Australia – May 2026

The Fair Work Commission (FWC, or Commission) recently confirmed that an employee who falsified timesheets while working from home was not unfairly dismissed in *Mr Neeraj Kumar v Hansen Corporation Pty Ltd* [2026] FWC 519. The decision highlights the importance of remote-work accountability, appropriate workplace monitoring and procedural fairness.

The facts

The applicant was employed full-time as a database manager and permitted to work from home due to the on-call nature of his role. Concerns arose after he repeatedly failed to attend online meetings on time, prompting his manager to investigate his system activity.

Using monitoring systems including Zscaler, Microsoft Entra and SentinelOne, the employer identified negligible activity during periods where the applicant claimed full working days. Despite the manager previously approving the timesheets, the investigation concluded the recorded hours could not have been worked based on the available data.

The applicant was issued allegations concerning falsified timesheets and failure to perform contractual hours. Reports were produced that suggested that he only logged in for ten minutes on one day. His WFH arrangement was not questioned per se, but the allegations addressed his sub-par performance of work.

In response, he largely admitted the conduct, acknowledging he had been “barely keeping up with the minimum” and accepting responsibility for inaccurate time recording.

Following a disciplinary meeting, the employer summarily dismissed him for serious misconduct.

Fair Work Commission proceedings

In a move that the employer may well have found surprising, given the applicant’s admissions during the disciplinary process, the applicant brought an unfair dismissal claim, attempting to dispute aspects of the allegations. His explanations were found unconvincing, including claims that:

- He was reviewing a lengthy hard-copy report that evidence showed was significantly shorter.
- He had little project work despite recording “project work” in his timesheets.
- He misunderstood the allegations as relating only to office attendance.

Commissioner Clarke found there was a valid reason for dismissal, describing a “gaping chasm” between the applicant’s recorded hours and his actual work activity. The Commission held that dishonesty regarding hours worked fundamentally destroyed the employment relationship and breached trust and confidence. The commissioner further referred to the 2023 decision of *Budgen v Verifact Pty Ltd* [2023] FWC 2224 where the employee in question had also committed timesheet fraud. “It is elemental that dishonesty in representing that work has been performed, where it has not been performed, is destructive of the employment relationship,” Commissioner Clarke aptly noted.

The Commission also found procedural fairness had been afforded. The applicant was notified of the allegations, participated in meetings, and was encouraged to bring a support person but declined. Although the investigation was brief, it was considered sufficiently systematic and fair.

Commissioner Clarke ultimately observed:

“The Applicant’s initial response to the allegations was to not contest them. That response was wise. His decision to bring and persist with these proceedings was ill advised.”



Key takeaways

While the FWC decision is hardly surprising, there are a few useful reminders that can be taken from it:

- **Digital monitoring evidence is highly persuasive**

The case demonstrates the increasing weight placed on:

- System activity logs
- Login records
- Application usage data
- Keystroke monitoring
- Other digital forensic evidence

Where monitoring evidence is detailed, objective and internally consistent, the Commission is willing to rely upon it in proving misconduct.

- **Employers should maintain clear monitoring and IT policies**

Employers seeking to track and monitor performance, and then wanting to rely on surveillance evidence, should ensure they have:

- Transparent and legally compliant monitoring policies
- Acceptable-use IT policies
- Clear timesheet and WFH procedures
- Proper managerial oversight and accountability

Employers should also remain mindful of surveillance obligations under legislation such as the *Workplace Surveillance Act 2005* (NSW) and *Workplace Privacy Act 2011* (ACT), including notice requirements and limits on monitoring outside working hours.

- **Procedural fairness remains essential**

Even where misconduct appears obvious, employers must still:

- Notify employees of allegations
- Provide an opportunity to respond
- Conduct a fair investigation
- Allow access to a support person if requested

The decision reinforces that procedural fairness remains critical to defending unfair dismissal claims.

- **WFH policies and oversight should be reviewed**

The case also highlights the need for robust managerial oversight in remote work arrangements. While employees remain responsible for accurately recording time worked, employers should ensure expectations regarding productivity, reporting obligations and downtime are clearly communicated and consistently monitored.

With remote and hybrid work now firmly embedded in Australian workplaces, employers should ensure that their monitoring practices, policies and procedures remain legally compliant and operationally effective, particularly when we are seeing a significant increase in the number of AI tools and platforms that are being used to monitor productivity and employee output.

If this case raises concerns or queries for your business operations, or you would like more information on the potential impact of this decision, please contact our Labour & Employment team for assistance.



Nicola Martin
Partner
Labour & Employment, Sydney
T +61 2 8248 7836
E nicola.martin@squirepb.com



Lucas Spicer
Law Graduate
Labour & Employment, Perth
T +61 8 9429 7553
E lucas.spicer@squirepb.com

The opinions expressed in this update are those of the author(s) and do not necessarily reflect the views of the firm, its clients, or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.

© Squire Patton Boggs. All Rights Reserved 2026.

71197/05/26