

MISCONDUCT

OF AN EMPLOYEE



If an employee had committed any irregularity and/or misconduct, it is trite that the employee may be dismissed provided that there is a just cause and excuse to do the same.

A prime example of a dismissal of a bank's employee due to misconduct can be illustrated in the case below:

Industrial Court:
Othman Bin Abdul Manan ("Claimant") v CIMB Bank Berhad ("the Bank")
Award No: 751 Of 2020
Case No: 22(29)(22)/4-406/19



CASE SUMMARY

The Claimant was a Branch Manager of the Bank;

A

The Bank contended that the purpose of the Claimant in performing the transfers was for the staff to attain Preferred Customer status and consequently, to reach the Claimant's 2017 Branch Key Performance Index for "Number of Successful Acquisition – New Preferred Customer" ("KPI");

D

The Bank discovered that the Claimant had performed fund transfers from his current account to the current accounts of 3 of his staff ("the staff") between October to December 2017 ("the transfers");

B

On the contrary, the Claimant had contended that the transfers were a form of appreciation and motivation for his staff to work harder;

E

In January 2018, the staff had returned the funds to the Claimant;

C

The Bank had incurred no monetary loss; and

F

Issues:

a. Whether the misconduct by the Claimant alleged by the Bank had been established; and

b. Whether the proven misconduct constituted a just cause and excuse for the dismissal of the Claimant.

G

Nonetheless, the Bank then dismissed the Claimant.



Claimant's misconduct had been established

a. The Court agreed with the Bank's contention that the Claimant had executed the fund transfers to achieve his KPI and committed a serious misconduct by misrepresenting the Bank on the following:

- i. The qualification of the staff as Preferred Customers; and
- ii. The attainment of the 2017 Branch Key Performance Index.

COURT'S DECISION:

**The
misconduct
constitutes
a just cause
and excuse for
the dismissal
of the Claimant**

a. The Claimant's misrepresentation to the Bank had severely harmed the trust given to him by the Bank.

b. Therefore, the Claimant's dismissal by the Bank was justified.

The Importance of High Standards of Integrity for Bank Employees

A The Court stressed on the importance of the Bank as a custodian of public funds and as such, its employees must have high standards of honesty, integrity and discipline.

KEY TAKEAWAYS

The Court cited the case of PERWIRA HABIB BANK (M) BHD v. TAN TENG SENG @ LIM TENG HO [1997] 2 ILR 839; [1995] 2 MELR 499 which emphasized the following:

“The banking industry belongs to a special kind of business and services rendered to the public. It is entrusted with other people's money. Therefore a high quality of discipline and conduct of the highest order is expected of its staff to win public confidence. The bank demands from its employees absolute honesty and impeccability. The claimant, as a bank manager, occupied a position of trust. He should not only be honest but be seen to be honest. Like Caesar's wife, the claimant must be above all suspicion”.

A

Bank employees should never lie and/or misrepresent data and/or facts to the Bank to merely achieve their KPI.

THERE IS NO SHORTCUT TO **SUCCESS**

The Bank may dismiss their employees for the aforementioned act(s) despite the fact that the Bank suffered no monetary loss.

B