

Contact Persons:

21 JUNE 2018

Employment

Lim Heng Seng
Partner
DID: +603 6208 5861
Fax: +603 6201 0122
Email: lhs@lh-aq.com

Dato' Thavalingam C Thavarajah
Partner
DID: +603 6208 5857
Fax: +603 6201 0122
Email: tt@lh-aq.com

Shariffullah Abdul Majeed
Partner
DID: +603 6208 5881
Fax: +603 6201 0122
Email: sha@lh-aq.com

What Amounts to Condonation of Misconduct

Fam Fee Lin v Hewlett-Packard (M) Sdn Bhd
(Industrial Court Award No 1227 of 2018)

| by Sebastian Tay Hanxin |

The employee was a Financial Assistant whose duties included performing financial transactions for and on behalf of the company.

Employees of the company applying for a personal loan were often asked for an employment certification letter by the financial institution. The company's online portal allowed any employee to retrieve such a letter bearing a digital signature. Where the financial institution insisted on a personal signature, the employee would have to ask the relevant HR officer to sign the letter.

Instead of procuring an actual signature, the employee in this case forged the signature of the HR Operations Advisor. Upon discovering the forgery, the HR Operations Advisor immediately reported it to the management for investigation, although she went on to issue a fresh letter with her own signature. The employee was dismissed approximately three weeks later, but not before she was sent on two business trips. In reply to a show cause letter during the investigation period, the employee had readily admitted to the forgery.

The Industrial Court, in disagreeing with the employee's contention that the company had condoned her misconduct, held that:

- Although the company had sent the employee on two business trips, there had been no undue delay as it had acted promptly by commencing an investigation upon receiving the report from the HR Operations Advisor.
- The HR Operations Advisor who had issued the employee with a fresh employment certification letter containing her genuine signature was not aware of the ongoing investigation against the employee.

Although the employee was guilty of a single misconduct (to which

she had readily admitted) and had no previous disciplinary issues, the Industrial Court found her dismissal to be fair having regard to the position of trust she held, which required a high standard of care and conduct.

The company was represented by partner Dato' Thavalingam C Thavarajah and associate Sebastian Tay Hanxin of [Lee Hishammuddin Allen & Gledhill](#).

The Industrial Court award may be viewed [here](#).

Sebastian Tay Hanxin (thx@lh-ag.com)

If you have any queries, please contact the author or his team partner [Dato' Thavalingam C Thavarajah](#) (tt@lh-ag.com).

Lee Hishammuddin Allen & Gledhill

Level 6, Menara 1 Dutamas
Solaris Dutamas
No. 1, Jalan Dutamas 1
50480 Kuala Lumpur
Malaysia

T +603 6208 5888
F +603 6201 0122/0136
E enquiry@lh-ag.com
W www.lh-ag.com

Published by the Employment Practice Group

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