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Ignorance of the SOP is Not a Defence

Subramaniam a/l Paidiah v Proton Edar Sdn Bhd
(Industrial Court Award No 3125 of 2018)

The claimant's duty as the Parts Assistant was to order and supply automotive parts in a summary list given to him, from time to time, by his colleague, the Insurance Claim Assistant. Once he had these parts ready, he was to inform the Insurance Claim Assistant, who would provide a Repair Order Form (RO) in which the claimant was to charge the parts ordered and this RO would form part of the Parts Supply to Insurance Claim Form.

The Insurance Claim Assistant's long leave caused a backlog in the repair works and thus he ordered parts before the issuance of the summary list to make up for lost time. The claimant informed the Service Head (SH) of this, and only ordered parts after attaining his approval. Accordingly, the parts were charged to the RO.

It was discovered that there were discrepancies in the transactions between 9 July and 1 October 2012 as there was a monetary loss because the parts supplied were not in the insurance company approval letter. This was a clear breach of the Company's Standard Operating Procedure (SOP), which stated that the "parts assistant shall issue all parts in compliance with the parts breakdown of the approved claim".

The claimant argued that he had no knowledge of the existence of such SOP and tried to lay the blame on his superiors by stating that he was merely following their instructions. The Company had also made a police report against the Insurance Claim Assistant as he had quickly left the Company after the discovery of the discrepancies in the transactions. The SH was also dismissed pursuant to a Domestic Inquiry hearing.

The Industrial Court dismissed his claim for unlawful dismissal and held, among others, that:

- (a) The claimant's excuse of not knowing the SOP in question does not in any way absolve the claimant from his own wrongdoing;

- (b) It was evident from the claimant's past disciplinary record that he was in fact specifically reminded previously to abide by the Company's policies and procedures;
- (c) The claimant clearly knew that the instructions of his superior were wrong, but instead of reporting the wrongdoings to a higher authority, the claimant still followed the unlawful instructions; and
- (d) It was the claimant's overriding fiduciary duty to ensure that the Company's properties were properly managed and accounted for.

The Company was represented by partner Shariffullah Abdul Majeed of [Lee Hishammuddin Allen & Gledhill](#).

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

Shariffullah Abdul Majeed and **Rahul Thomas Dennis** (Pupil-in-Chambers)

If you have any queries, please contact team partner [Shariffullah Abdul Majeed](#) (sha@lh-ag.com).

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