



Shariffullah Majeed
Partner
T: +603 6208 5881
E: sha@lh-ag.com

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Years of Service Will Not Offset Habitual Misconduct

Rumzi bin Abd Hamid v Westports Malaysia Sdn Bhd
(Industrial Court Award No 1583 of 2019)

The claimant was a Marine Clerk in the company. Despite numerous warnings, the claimant on repeated occasions failed to clock in when coming to work at his designated location and developed a pattern of tardiness in reporting for duty. Management also received complaints from his superiors that he displayed disobedient and riotous behaviour. He also refused to accept a letter from his superior asking him to show cause as to why he should not be dismissed. Prior to this current set of incidents, the claimant had a history of similar misconduct.

The claimant argued that he was unaware of the company policy that required him to clock in at the designated location, despite having served for 17 years. On his behaviour, he blamed his superior for having provoked him at the time when he was being served with the show cause letter.

In dismissing his claim for unfair dismissal, the Industrial Court held, among other things, that:

- (a) Discipline at the workplace is crucial to ensure the smooth operation of a large organisation such as the company in question;
- (b) The claimant's continued failure to punch in at the designated location and to report for duty on time, despite warnings given, showed his blatant disregard for the rules established in the company;
- (c) The claimant's repeated disobedience and rudeness towards his superiors amounted to blatant and serious misconduct. At the domestic inquiry, he did not deny that he had used disrespectful and derogatory words against his superior;
- (d) Although the claimant had a long record of service, the court had to balance it against his prior misconduct in deciding the proportionality of dismissal as a punishment;
- (e) Although each incident of misconduct, taken in isolation, would

not have warranted dismissal, the frequency of occurrence of such incidents did.

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

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

Nurul Aisyah Binti Hassan (nah@lh-ag.com)

If you have any queries, please contact the author or her team partner, **Shariffullah Majeed** (sha@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

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