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Threat of Disciplinary Action is Not Coercion

Azahari bin Md Lazim v Spanco Services Sdn Bhd
(Industrial Court Award No 2335 of 2019)

Resignation in the face of threatened disciplinary action will not constitute a forced or involuntary resignation.

The company had uncovered preliminary evidence of misconduct involving a conflict of interest. Upon being queried and shown this evidence, the employee, a senior manager, was informed that further investigative and/or disciplinary action would be taken. The employee's immediate response was to resign from his position, despite having served for more than 20 years. In his letter of resignation, the employee had expressly thanked the management and wished the company well.

He then proceeded to file a claim of unfair dismissal against the company, alleging that he had been coerced and pressured into resigning by the apparent threat of legal and/or disciplinary action against him.

The Industrial Court, however, agreed with the company's position that disciplinary action in response to *prima facie* evidence of misconduct would not amount to undue pressure or coercion which would render the resignation involuntary. The court further considered that, had the claimant truly believed in his own innocence, he should have been prepared to defend himself through the disciplinary process and it was thus illogical for him to resign if, in his view, he had committed no wrong in the first place.

Lastly, the court took cognisance of the language used in his resignation letter, which was polite, unqualified and indeed grateful, which to its mind was wholly inconsistent with his claim of coercion and compulsion to resign.

The company was represented by senior associate David Tan Seng Keat, and associate Aida Yasmin Cheree Mohamad of [Lee Hishammuddin Allen & Gledhill](#).

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

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