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11 DECEMBER 2019

Employees Cannot Turn a Blind Eye

Marina binti Makin v CIMB Bank Berhad
(Industrial Court Award No 1763 of 2019)

The employee was a customer service officer with a local bank, responsible for monitoring the branch's daily operations and ensuring compliance with standard operating procedures and regulatory requirements.

It was subsequently discovered that the branch had a cash shortage of RM130,500 as a result of fraudulent transactions orchestrated by the Cash Custodian and two other bank tellers.

During the course of the bank's investigations, it was also found that the employee had been aware of the cash discrepancy at the branch on the first day when she relieved the Cash Custodian. As the relief Cash Custodian, the employee was required to tally the cash in hand with the cash balance as reflected in the system.

The employee admitted to the bank's investigators that she did not wish to be concerned with the cash shortage, despite being aware of it, and that she took pity on the Cash Custodian.

The Industrial Court upheld the decision to dismiss the employee and ruled as follows:

- The employee had abetted the Cash Custodian in defrauding the bank by her failure to escalate the cash shortage to the branch manager;
- The employee should have escalated whatever little information she had of the cash shortage to the branch manager for further investigation;
- In the banking industry where employees owe a higher standard of duty to the bank and its clients, it was an implied duty of the employee to report any wrongdoings, misconduct or irregularities within her knowledge.

Despite the employee's long years of service with the bank, the Industrial Court held that the employee's misconduct, which had elements of dishonesty, had severed the relationship of trust and confidence.

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

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

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Published by the Employment Practice

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