



Dato' Thavalingam Thavarajah
Employment
T: +603 6208 5857
E: tt@lh-ag.com

15 DECEMBER 2019

Employees May Be Liable for the Unintended Consequences of Their Misconduct

Mohd Azmin bin Mohd Tamin v Malaysia Airlines Berhad
(Industrial Court Award No 1093 of 2019)

A single instance of non-compliance with an employer's procedures may warrant an employee's dismissal where, although unintended, it could lead to serious and damaging consequences to the employer.

In the above case, the employee, a security officer, was dismissed by Malaysia Airlines Berhad (**MAB**) after it was found that he had shared CCTV footage of a vehicular accident occurring on the employer's premises at KLIA. The employee had recorded the footage on his mobile phone and later shared it on two WhatsApp groups comprising current and former employees of MAB.

The footage thereafter went viral via a Facebook group and was subsequently broadcast on TV3, a national TV station.

In dismissing the employee, MAB highlighted that it was expressly stated under his job description that video footage was not to be released without the appropriate sanction. Thus, while the employee may not have intended the release of the footage to the greater public and had not done so directly himself, his unsanctioned sharing of the footage constituted a breach of his duties and responsibilities which had made that release possible in the first place.

The Industrial Court agreed with MAB and held that, while the public release of the footage and its damaging effect on MAB's reputation may not have been the employee's intention, he had certainly showed reckless disregard for MAB's policies. The court accordingly took the view that the public release of the footage compounded the employee's misconduct and undermined MAB's conscious efforts to rebrand itself following the MH17 and MH370 tragedies, and, taken altogether, his dismissal was justified in the circumstances.

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

The company was represented by senior associate David Tan Seng

Keat of [Lee Hishammuddin Allen & Gledhill](#).

David Tan Seng Keat (dt@lh-ag.com)

If you have any queries, please contact the author or his team partner [Dato' Thavalingam 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

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