



7 MAY 2021



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Employee's Responsibility to Provide Reasonable Excuse for Absence

Chandramogan M Beeman v Affin Bank Berhad
(Industrial Court Award No 990 of 2021)

On Thursday (6 May 2021), the Industrial Court, in dismissing an employee's claim for unfair dismissal, reiterated the trite principle that it is the duty of an employee to prove that he had a reasonable excuse for his absence and had informed or attempted to inform his employer of his whereabouts.

The employee, who had been working for the Bank for nearly 18 years, was reported absent from work for 43 days without prior notice or approval. The Bank had accordingly attempted to serve him with a show cause letter by way of courier and AR Registered Post, but both attempts were unsuccessful. The employee was later dismissed for his failure to provide any reasonable excuse for his prolonged absence. It was then argued by the employee that he had been dismissed for failing to reply to the show cause letter, which he had never received.

In his defence, the employee attempted to muddle the issues before the Industrial Court by contending that he had been absent as he was suffering from illness due to his allegedly stressful job scope upon being promoted after 17 years, and the Bank had refused his request to resume his former role, which entailed a lighter workload. He later admitted at trial that the Bank's refusal of his request was the reason he stopped coming to work.

The employee also claimed that he was in constant contact with his superior, the Bank's branch manager, through *WhatsApp* and she had "visited his house to collect his medical certificates" and purportedly informed him that he was on "unpaid leave" during his absence.

The Industrial Court, in finding that the Bank had just cause and excuse for dismissing the employee, held as follows:

- (a) It is the duty of the employee to inform the Bank of his absence from work at the earliest opportunity and produce the necessary medical leave certificates to justify the same. The Bank had clearly made attempts to serve the show cause letter to the employee's last known address but was unable to do so. In any case, the employee did not have to wait for the Bank to issue a show cause letter before providing his explanation for his absence;
- (b) The burden was on the employee to subpoena his superior to prove his averments that she had purportedly visited his house to collect the "medical leave certificates" and told him he was on unpaid leave or that she was in constant contact with him via *WhatsApp*;
- (c) Although the employee's request that he be allowed to resume his previous position as Teller had been rejected, it is the responsibility of the employee as an officer of the Bank to discharge his duties to the best of his ability and not act in a manner which would disrupt the Bank's operations; and
- (d) By virtue of the employee's absence from work without prior approval for 85 days, he had committed a wilful breach of his contract of service which entitled the Bank to dismiss him.

The Bank was represented by partner Shariffullah Majeed, and associate Nurul Aisyah Hassan, of [Lee Hishammuddin Allen & Gledhill](#).

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

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Published by the Employment & Industrial Relations Practice

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