

## Sale of Business Is a Justified Reason for Termination of Employment

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By Employment Law & Administrative Law Practice Group

In a recent case of **Suryanei Bt Ahmad v UMW Toyota Motor Sdn Bhd** (Award No. 2443 of 2019), the Industrial Court ruled that a sale of business which results in a change of business ownership is a valid reason for the termination of an employee.

In 2018, UMW Toyota Motor Sdn Bhd sold one of its branches. The purchaser of the branch offered continued employment to all employees who were employed at the branch. The terms of employment offered were no less favourable than their current terms. One employee declined to accept the offer of continued employment despite UMW having explained to her that she would not be worse off. As the employee had declined to accept the offer of employment made by the purchaser, UMW Toyota had no choice but to cease her employment. The employee filed an action of unfair dismissal under section 20 of the Industrial Relations Act 1967.

The Industrial Court upheld the said termination of employment and ruled the following:-

- a. the employee's termination of employment was by virtue of operation of law due to the change in business ownership;
- b. that the employee had rejected the offer of continuous employment made by the dealer, twice, although the terms offered were no less favourable and she had no reasonable basis to decline these offers.
- c. that an employment contract cannot be transferred to the new entity and the employment contract with her employer came to an end.

Therefore, her termination of employment was for just cause and excuse.

UMW Toyota Motor Sdn Bhd was represented by Raymond TC Low and Nadia Abu Bakar, from our Employment and Administrative Law Practice Group.

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