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We are pleased to bring you the following update from our [Employment and Administrative Law Practice Group](#).

Forced Resignation Does Not Automatically Amount to Unfair Dismissal

A case of forced resignation does not automatically amount to an unfair dismissal. In the recent decision of **Mohd Rizam bin Ibrahim v Prince Court Medical Centre Sdn Bhd** dated 5 June 2020 [Award 716 of 2020], the Industrial Court ruled that although the employee was forced to resign, the same was with just cause and excuse.

The employee in the instant case was a senior physiotherapist with Prince Court Medical Centre (PCMC) and was found to have engaged in his own business, which was also in the service of providing medical services to the public. This was a breach of PCMC's conflict of interest policies. In order to investigate the matter, PCMC scheduled two meetings with the employee. During these meetings, the employee conveyed his intention to resign in lieu of disciplinary being taken against him.

After the second meeting, the employee resigned from PCMC. However, he then filed an unfair dismissal claim, alleging that he was forced to resign under the threats of dismissal. Conversely, PCMC contended that the employee had voluntarily resigned.

On the issue of forced resignation, the Industrial Court concurred with the employee and ruled that he was in fact forced to resign. The forced resignation, therefore amounted to a dismissal. However, the Industrial Court then had to determine whether the dismissal was warranted.

The Industrial Court evaluated the evidence and found that the employee was in fact involved with his own external business, which amounted to a conflict of interest. Such behaviour was an express breach of PCMC's internal policies and amounted to a serious misconduct. Given the employee's conduct of acting in conflict of interest, the Industrial Court ruled that the dismissal was with just cause and excuse.

Whilst investigating matters of misconduct, it is not uncommon for employers to propose for employees to consider resigning as a form of an amicable departure to protect the employee's disciplinary record. However, employers should be vigilant to maintain records in relation to the employee's misconduct, in the event the employee subsequently files a claim of forced resignation.

The company was represented in the instant matter by [Vijayan Venugopal](#), who is a Partner in our [Employment and Administrative Law Practice Group](#), assisted by [Benedict Ngoh](#).

Click here to read the case: <https://tinyurl.com/yc5mofrn>.

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