



### **Importance of Conducting a Well-Executed Domestic Inquiry**

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#### **Introduction**

In the recent Industrial Court Award between **Malaysia Airports Sdn Bhd and Suhaimi bin Mohammad Haniff** [Industrial Court Award 895 of 2020], the Industrial Court had underlined the significance of a well-executed Domestic Inquiry where the evidence of a witness during a domestic inquiry was given sufficient weight in adjudicating the matter.

#### **Brief material facts**

In the present matter, the Claimant was dismissed for assisting his colleague, Ms. H, in obtaining a false medical certificate. The “*transaction*” between the Claimant and Miss H was also recorded by one of the Airport’s closed-circuit television (“CCTV”) recordings. When asked to show cause, the Claimant categorically denied the charge and claimed that he had no knowledge whatsoever of the purported false medical certificate. He further explained that at the time of the CCTV recording, he had only met Miss H to obtain a repayment of a loan. A Domestic Inquiry was conducted in which Miss H was called as one of the Company’s witnesses. Pursuant to the Domestic Inquiry, the Claimant was found guilty and was subsequently dismissed.

#### **Absence of Miss H as witness before the Industrial Court proceedings**

Miss H, was also dismissed for submitting the false medical certificate. During the Industrial Court proceedings, Miss H was not called as a witness as the Company was unable to locate her whereabouts. Notwithstanding, the Industrial Court was of the view that the domestic inquiry was validly conducted and the evidence adduced in the domestic inquiry should be considered and given sufficient weight. Among the factors considered were:

1. That the Claimant was given ample time to prepare for the domestic inquiry;
2. That the Claimant had signed the notes of inquiry;
3. That the Claimant did not dispute the accuracy of the notes; and
4. That the Claimant was given sufficient opportunity to cross-examine the Company's witnesses during the Domestic Inquiry.

In this connection, the Industrial Court considered Miss H's evidence as follows:

1. That she had explained the modus operandi in obtaining the medical certificate during the Company's investigations;
2. That she had maintained her consistency of her evidence during the Domestic inquiry; and
3. That she consistently denied ever obtaining a loan from the Claimant.

The Industrial Court accepted Miss H's evidence during the domestic inquiry and ruled that the Claimant was guilty of the charge on the balance of probabilities. The Industrial Court further ruled that the Claimant's defence of a repayment of a purported loan was rejected. The Claimant's claim was eventually dismissed.

### **Conclusion**

This case is a clear illustration of the importance of a well-executed Domestic Inquiry. It is a common occurrence where crucial witnesses (in a domestic inquiry), to leave the services of the employer before a dispute is referred to the Industrial Court. It would then be difficult for employers to locate the said witness(es). In such instances, the Industrial Court is entitled to rely on the minutes of the domestic inquiry in deciding the matter. Had the Company in the present matter not conducted a proper domestic inquiry, the outcome would have likely been different given the absence of Miss H's evidence before the Industrial Court. It is therefore extremely pertinent for employers to recognize the importance of conducting a proper domestic inquiries in investigating employee misconduct.

The Company in the present matter was represented by Mr. [Raymond T C Low](#) (Partner) and Mr. [Benedict Ngoh Ti Yang](#) (Associate) of our firm's [Employment and Administrative Law Practice Group](#). You may access the full decision [here](#).



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