

Keeping Items Belonging To The Company Without Authorization Is A Dismissible Offence

19th September 2018

By Employment Law & Administrative Law Practice Group

In the recent case of **Dalimi bin Yusoff v Malaysia Airlines System Berhad (Award No.: 2161 of 2018)**, the Industrial Court held that an employee who had in his possession, a number of Company items without prior authorisation was guilty of an offence that warranted dismissal. The Claimant was dismissed on two charges, namely his negligence in performing his duties which led to numerous items belonging to the Company going missing and keeping in his possession items that belonged to the Company without authorisation.

In respect of the 2nd Allegation, the Claimant contended amongst others that the said items were in fact “expired” items. The Industrial Court rejected the Claimant’s contention and held that the proper question to be asked was whether the Claimant had authorisation and permission to keep the items.

“Even if the items belonging to the Company had expired, the Claimant had no right to retain them for his own use without the prior authorisation of the Company . It matters not one bit whether the items were expired or not. What is material is whether the Claimant had received authorisation or permission from the Company. That is the correct and prevailing test.

...

Despite the Claimant’s contention that they were expired items , nonetheless he had no right whatsoever to retain the items for himself or for his own use without prior approval or permissions from the Company.”

Regardless of the value of the item, keeping in possession items that did not belong to an employee would therefore amount to a misconduct which warranted dismissal. This would be useful to note, particularly for instances where employees take the view that the items kept/taken were of nominal value.

The matter was handled by Vijayan Venugopal, who is a Partner in our Employment & Administrative Law Practice.

For further information regarding employment and administrative law, please contact:

Sivabalah Nadarajah
sivabalah@shearndelamore.com

Vijayan Venugopal
vijayan@shearndelamore.com

Raymond TC Low
raymond@shearndelamore.com

Suganthi Singam
suganthi@shearndelamore.com

7th Floor
Wisma Hamzah – Kwong Hing
No.1, Leboh Ampang
50100 Kuala Lumpur, Malaysia
Tel 603 2027 2727
Fax 603 2078 5625
E-mail info@shearndelamore.com
Website www.shearndelamore.com