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Dismissal of Long-Serving Senior Employee

Nor Iskandar Naini bin Hanifah v Small & Medium Enterprise Development Bank Malaysia Berhad
(Industrial Court Award Number 281 of 2018)

The oft-quoted principle in the industrial law that an employee has a duty to act in the interest of the employer with good faith and fidelity was reiterated by the Industrial Court recently. The employer company in this case was a Bank.

An investigation was conducted by the Bank's group audit division at one of its branches in September 2014. The Bank discovered that the employee, who was the head of the Credit Administration Unit, had made a false declaration to his superior to the effect that a particular customer's financial record was satisfactory. On that basis, RM400,000 was disbursed to the customer.

It was one of the conditions of the loan that the financial standing of the customer based on a credit database had to be satisfactory before the loan could be disbursed. As the head of the Credit Administration Unit, the employee was duty bound to ensure that the conditions of the loan were adhered to. In fact, the customer had an entry in the credit database indicating that he was indebted to another financial institution.

The court was of the view that the employee had failed to exercise the responsibilities and accountabilities expected of an officer in his position in the Bank.

The court held that a certain standard of care was expected from the employee who was holding a senior position and had been in service for 14 years. The court found that the employee had committed gross misconduct by blatantly ignoring the standard procedures that were in place to safeguard the interest of his employer. The Bank therefore could no longer repose the necessary trust and confidence in the employee to continue in service.

The court was of the opinion that it should not substitute its own view as to what should have been the appropriate penalty for the employee's misconduct and the best judge of the seriousness of the misconduct of its employee is the employer.

The employer was represented by partner [Shariffullah Abdul Majeed](#) and associate Ahmad Addlan Nabil of [Lee Hishammuddin Allen & Gledhill](#).

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If you have any queries, please do not hesitate to contact the author.

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