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Dismissal for Making a Secret Profit

Hatini binti Hamed v UMW Technology Sdn Bhd
(Industrial Court Award No 2889 of 2018)

| by Nur Amalina Isyqie Binti Imran Hadzalie |

The Employee in this case was given the responsibility to sell computer equipment to the employees of the Company at a fraction of the actual price of the equipment on which the Company's lease agreement had expired.

The Employee sold the equipment at a higher price and kept the difference, which she shared with her subordinate.

The Employee admitted that the purchasers did not know that the price had been marked up and that it was without any authority from the Company.

The Employee was dismissed by the Company, while her subordinate was given a warning letter.

At the hearing, she argued that it was not wrong for her to retain the profit as it could be considered as "administrative fees" in return for her overseeing the sale of the equipment.

The Industrial Court held that her dismissal was justified and pointed out that:

- (a) Although the Company had not suffered any loss (because the amount collected was to be paid to the leasing company), the Employee had acted dishonestly in deceiving the purchasers on the price and keeping the profit for herself. The absence of an actual victim did not absolve the Employee from her act of dishonesty; and
- (b) Unlike her subordinate who had regretted her decision and was given a warning, the Employee maintained that she had done nothing wrong in marking up the price. It is untenable for anyone to hold such a view and, therefore, the dismissal was

proportionate to her misconduct.

The Company was represented by partner Dato' Thavalingam Thavarajah and associate David Tan Seng Keat of [Lee Hishammuddin Allen & Gledhill](#).

The Industrial Court award may be viewed [here](#).

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