



Dato' Thavalingam Thavarajah
Employment
T: +603 6208 5857
E: tt@lh-ag.com

14 NOVEMBER 2019

When Does Time Run Out?

Muhamad Zuki bin Mat Zin v Menteri Sumber Manusia & Syarikat Bekalan Air Selangor Sdn Bhd
(Application for Judicial Review No WA-25-150-04/2019)

When an employee has been dismissed, internal company procedures allowing an avenue for further appeal will not affect the statutory timeframe for filing representations of unfair dismissal, the High Court held on 29 October 2019.

An employee of SYABAS had been dismissed with effect from 4 October 2018. His appeal to SYABAS was rejected via a letter dated 3 December 2018, and he subsequently filed his representation of unfair dismissal on 3 January 2019.

The very next day, the Director General of Industrial Relations (**DGIR**) rejected the employee's representation on the basis that it was filed outside the statutory timeframe of 60 days, as provided for under s 20 (1A) of the Industrial Relations Act 1967.

The employee then sought judicial review of the rejection, arguing that his dismissal was only confirmed once his appeal had been rejected on 3 December 2018 and he was therefore within time. He further contended that SYABAS' internal procedures governing an employee's right of appeal were a relevant matter which the DGIR had failed to take into consideration.

On behalf of SYABAS, it was stressed that the internal appeal process did not operate as a stay of execution in respect of the original dismissal, and the rejection of the employee's appeal only served to confirm his dismissal with effect from 4 October 2018. It was further highlighted that there had been nothing to prevent the employee from filing his representation while concurrently pursuing his appeal, and that the 60-day time limit imposed by statute was strict, permitting no exercise of ministerial discretion once it had passed.

The High Court agreed with the position taken by SYABAS, finding that the employee's date of dismissal was effectively set in stone based on the letter of dismissal, and this would not be changed or altered by the appeal and its subsequent rejection. Consequently, his representation to the DGIR was found to be out of time, and the DGIR had therefore acted correctly in rejecting it.

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

David Tan Seng Keat (dt@lh-ag.com)

If you have any queries, please contact the author or team partner [Dato' Thavalingam Thavarajah](#) (tt@lh-ag.com).

Lee Hishammuddin Allen & Gledhill

Level 6, Menara 1 Dutamas
Solaris Dutamas
No. 1, Jalan Dutamas 1
50480 Kuala Lumpur
Malaysia

T +603 6208 5888
F +603 6201 0122/0136
E enquiry@lh-ag.com
W www.lh-ag.com

Published by the Employment Practice

© Lee Hishammuddin Allen & Gledhill. All rights reserved. The views and opinions attributable to the authors or editor of this publication are not to be imputed to the firm, Lee Hishammuddin Allen & Gledhill. The contents of this publication are intended for purposes of general information and academic discussion only. It should not be construed as legal advice or legal opinion on any fact or circumstance.

[Feedback](#)

[Unsubscribe](#)