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Drug Abuse Warrants Summary Dismissal of Port Workers

Khairul Fitri Mohd Ariffin and Anor v Westports Malaysia Sdn Bhd
(Industrial Court Award No 3235 of 2019)

The Industrial Court dismissed two employees' claims for unfair dismissal and held that their summary dismissal from the company was justified upon testing positive for Tetrahydrocannabinol Carboxylic Acid (**THC**) following a random drug test by the National Anti-Drugs Agency (better known as **AADK**).

Given the positions of the claimants as operators of heavy machineries in the port such as the quay crane and stacker, the company took the stance that it could not afford to tolerate drug abuse among its employees and the risk of any injuries or fatalities. Therefore, the company had no alternative but to dismiss the claimants with immediate effect.

The claimants asserted in support of their case that they did not have any record of drug abuse throughout their employment with the company, and that in tests taken of their own accord nearly a month after the initial tests conducted by AADK, they had tested negative for THC.

In dismissing their claims for unfair dismissal which fundamentally relied on their subsequent tests, the Industrial Court held, among other things, that:

- a. There is nothing in the company's policies or guidelines which mandate that it must give the employees a second chance to provide their urine sample for the random drug test by AADK;
- b. The claimants' subsequent urine tests which they had undergone nearly a month after the test by AADK were irrelevant and dubious;
- c. Given the nature of their work in the company, they were not only endangering themselves but also others around them by being under the influence; and
- d. Considering its size and the nature of its industry, the company was justified in summarily dismissing the claimants for drug abuse.

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

The company was represented by partner Shariffullah Majeed and associate Nurul Aisyah Binti Hassan of [Lee Hishammuddin Allen & Gledhill](#).

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