

IN THE INDUSTRIAL COURT OF MALAYSIA CASE NO: 7(22)/4-876/21 BETWEEN FIRDAUS BIN SAEDIN AND MELAKA ICT HOLDING SDN BHD | Award No: 1315 of 2025

Key Facts:

1. **Parties:**

- **Claimant:** Firdaus Bin Saedin (Former CEO of Melaka ICT Holding Sdn Bhd).
- **Company:** Melaka ICT Holding Sdn Bhd.

2. **Termination:**

- Claimant was terminated on **29.7.2020** during his probation period for alleged misconduct, including:
 - Unauthorized purchases (e.g., Huawei devices totalling RM5,742) for personal use.
 - Involving his second wife, Noraini, in ISO 9001:2015 documentation amendments without approval.
 - Rehiring two terminated employees without Board of Directors (BOD) approval.
- Claimant received two show-cause letters (12.6.2020 and 22.6.2020) but failed to respond. No domestic inquiry (DI) was conducted.

3. **Claimant's Defense:**

- Alleged conspiracy by the Company to remove him.
- Argued termination violated natural justice as no prior warnings or DI were issued.

4. **Company's Case:**

- Cited breaches of:
 - Employment contract (Clause 9.1: probationary termination rights).
 - Company policies (e.g., misuse of assets, conflict of interest).
- Claimant's actions allegedly lacked BOD approval and violated fiduciary duties.

Key Legal Issues & Findings:

1. **Burden of Proof:**

- The **Company failed to prove misconduct** on a balance of probabilities.
- No evidence showed the purchases were purely personal (receipts were submitted; Admin Department processed payments).
- Noraini's involvement in ISO meetings was tacitly approved (no immediate objections from the Company).
- Rehiring of employees followed advice from the Industrial Department (no misconduct proven).

2. **Procedural Fairness:**

- **No prior warnings or DI** were held, violating natural justice.
- Show-cause letters gave only **3 days to respond**—deemed insufficient.
- Court cited precedents (e.g., *Wong Yuen Hock v. Hong Leong Assurance*) affirming that procedural flaws can render dismissal unfair.

3. **Probationer's Rights:**

- Even probationers are entitled to fair treatment (*Khaliah Abbas v. Pesaka Capital*).
- Termination must be **bona fide**, not a "coloured exercise" of power.

4. **Remedy:**

- Reinstatement was deemed inappropriate due to strained relations.
- **Award:** 6 months' back wages (RM94,200) minus 10% for post-dismissal earnings = **RM84,780**.

Key Learning Points:

1. **Employers Must Prove Misconduct:**

- Dismissals require **convincing evidence** of wrongdoing. Suspicion alone is insufficient.

2. **Procedural Compliance is Critical:**

- Conduct a **domestic inquiry** or at least provide a **reasonable opportunity to respond** (e.g., longer than 3 days for show-cause letters).
- Issue **clear warnings** before termination, especially for probationers.

3. **Probation ≠ No Rights:**

- Probationers are protected under industrial law—dismissals must be **justified and procedurally fair**.

4. **Documentation & Consistency Matter:**

- The Company's case weakened due to:
 - Approving purchases retrospectively.
 - Failing to object to Noraini's involvement during meetings.
 - No evidence of financial loss or policy breaches.

5. **Mitigation of Awards:**

- Courts may deduct post-dismissal earnings (here, 10%) even without proof of employment (*DTS Trading v. Wong Weng Kit*).

Conclusion: This case underscores the importance of **due process, documentation, and evidence-based dismissals** to avoid costly unfair dismissal claims. Employers should balance contractual rights with fairness under industrial law.

Award Date: 18 August 2025 | **Chairman:** Y.A. Puan Vanithamany Sivalingam.