

PERSPECTIVE INSIGHTS

Case Summary

WORKPLACE INVESTIGATIONS: SAFEGUARDING FAIRNESS AND CREDIBILITY

Posted on December 03, 2025 by Dzulfadhl bin Lamin

"Investigations is about establishing facts fairly. Even the strongest evidence collapses without proper process."

In today's workplace, investigations are more than just a HR procedure, they are the statement of a company's fairness and credibility in handling sensitive matters. For Malaysian employers, the Industrial Court has consistently emphasized that dismissals must be based on just cause and excuse. This principle means that before any disciplinary action is taken, a proper investigation must be carried out. Without it, even the strongest evidence of misconduct can collapse under scrutiny.

At its heart, a workplace investigation is about creating a balance. It protects the rights of employees by ensuring they are heard, while also safeguarding employers by documenting misconduct thoroughly. Investigations are not about proving guilt at all costs; they are about establishing facts in a fair and impartial manner.



The Industrial Court's recent decisions highlight the importance of proper investigations:

Last month, the Industrial Court of Ipoh in the case of Dinesh Kumar a/l K. Krishnan v. Sapura Offshore & Anor, upheld dismissal of an employee who was the Head of Department of HSE and was responsible for the approval of fraudulent claims by other employees. The Court emphasized that an employer must establish just cause and excuse for dismissal through a proper and documented investigation. The company's thorough investigation into the allegations were decisive.

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The Court was satisfied that the Company was able to show proof of a clear inquiry process (i.e. show cause and domestic inquiry) where evidence and witnesses were presented to justify the allegations against the claimant.



In another case, Ng Ying Yeing v. Symphony Life Berhad, a CFO was dismissed for alleged unauthorized fund transfers and payroll data disclosure. The Court criticized the employer for conducting a rushed investigation and failing to provide a proper inquiry. The dismissal was deemed unjust. The case illustrates that even senior employees are entitled to fair process, and shortcuts can invalidate disciplinary action.

Several elements consistently appear in Industrial Court judgments (you can make a checklist from the elements!):

- Clarity of Allegation: Misconduct must be clearly defined. Vague accusations such as “poor performance” or “misuse of funds” are insufficient.
- Timeliness: Investigations should begin promptly. Delays can be interpreted as condoning (available defence for the accused employee) the misconduct.

- Impartiality: The investigator must be neutral and not directly involved in the incident. Bias undermines credibility.
- Evidence Gathering: Documentation, witness statements, and physical evidence must be collected systematically. Selective or incomplete evidence weakens the employer's case.
- Right to be Heard: Employees must be given a chance to explain themselves. This principle of natural justice is non-negotiable. This is best demonstrated with the issuance of a show cause letter and an opportunity to enter into a domestic Inquiry proceeding.
- Documentation: Every step should be recorded. Courts often examine whether the employer followed due process, and written records are the best defence.
- Why so fast? Avoid rushed or superficial investigations. The Courts often highlight “half-baked” processes as an unfair practice.

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Workplace investigations are not merely administrative tasks; they are the foundation of workplace justice. By adhering to principles of clarity, timeliness, impartiality, and documentation, HR practitioners can protect both employees and employers.

Recent Industrial Court cases show that when investigations are done right, they stand up to scrutiny. When they are neglected, the consequences can be severe. If you want to deepen your understanding and learn practical, hands-on workplace investigation strategies backed by Industrial Court case law, you can reach out to our IR consultants for advisory and/or training sessions.

Reference:

Dinesh Kumar a/l K. Krishnan v. Sapura Offshore & Anor
AWARD NO: 1790 OF 2025 [CASE NO: 10/4-1177/22]

Ng Ying Yiing v. Symphony Life Berhad
AWARD NO. 1678 OF 2024 [CASE NO: 22-4-645-22]



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