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The Position of Fixed Term Contracts for C-Suite Roles

In the recently decided case of **Azman Shah Bin Mohamed v. Malaysia Airports Holdings Berhad (Award No: 857 of 2025)** we gathered an interesting point - one, that has been up for debate, especially within large multi-nationals and government linked companies (GLCs).

1. Background

The Claimant's employment background with the Company are as follows:

2017 - 2019	Fixed Term Contract Appointment	Commenced employment as Senior General Manager, Human Resources
2019 - 2021	Fixed Term Contract Renewal (1)	Fixed term contract renewed by the Company's Nomination and Remuneration Committee (NRC) The Claimant received RM15,000.00 as 'end of contract' payment.
2020	Redesignation	Claimant was designated as Chief, Human Capital Officer
2021 - 2023	Fixed Term Contract Renewal (2)	Fixed term contract renewed again by the NRC The Claimant received RM15,000.00 as 'end of contract' payment.
July 2023	Non-renewal / Expiration	Claimant was informed that his contract will not be renewed and his employment will end on 1st August 2023 on grounds of expiration of contract.

According to the Claimant, his **duties were not temporary** in nature, the **business of the Company was not temporary** and **there were no breaks** in his service during his employment. The Claimant also stated that at all material times, **he was treated as a permanent employee** and therefore argued that the **fixed term contract was not genuine** and was designed to avoid liability under the law.

On the other hand, the Company submitted that:

- The Claimant was aware that all previous Senior Managers and above were employed under fixed term contracts as part of a GLC transformation program launched in 2004 to transform GLCs into high performance entities.

- The Claimant was responsible for strategising, developing and implementing various National and GLC Human Capital initiatives.

- Naturally, through his position as the Head of HR, the Claimant was tasked to oversee the management and renewal of all fixed term contracts within the Company

- The Claimant knew at all times that he was employed under a fixed term contract.

2. Key Issues

The Industrial Court identified three primary issues to resolve:

- Whether the Claimant's contracts of employment were genuine fixed-term contracts.

- If so, whether the contracts had come to their natural end by effluxion of time.

- If the contracts were not genuine, whether the Claimant was dismissed without just cause or excuse.

3. Findings

In determining whether a fixed term contract is genuine, the Court will consider the intention of the parties in entering into the contract of employment, employer's subsequent conduct during the course of employment and nature of the employer's business and the nature of work which an employee is engaged to perform.

The above, was concluded by the Industrial Court through the following observations:

- The Company tendered a national policy initiated in 2004 by the government of Malaysia involving GLCs, i.e. the Blue Book where amongst others, all members of the senior management at GLCs (C-Suites / KMP) are to be employed under fixed term contracts.

- The Claimant was clearly assuming a C-Suite position. He cannot ignore this fact as he was spearheading all the fixed term contract initiatives of the Company. His argument that his role still exists is not relevant as he knew all along the nature and function of his fixed term contract.

- It was clear that the intention of the parties was to engage the Claimant under a fixed-term contract for a specific duration, subject to renewal upon the NRC's deliberation. There was never meant to be an automatic renewal.

- At the end of every fixed-term contract, the employee's annual leave was exhausted / forfeited.

- The Claimant had never raised any objections throughout his employment period and had even received a payment package of RM15,000.00 for every expiry.

The Court decided that the Claimant's fixed term contracts were genuine, the last of which ended lawfully on grounds of expiration. The claim of unlawful dismissal was ruled out by the Industrial Court on such grounds.

4. Key Takeaways

This case signifies an important point - one that confirms that fixed term contracts for C-Suite employees can be legally recognised as genuine despite renewals and the absence of a break.

We thought that the following points contributed to the Court's decision in favour of the Company:

- The fact that the Claimant was at the very top of the HR role, one that was managing employment contracts

- The practice of an 'end of contract' payment

- A clear conclusion of each contract through the exhaustion / forfeiture of annual leave balance (which we assume, would mean that all other terms and conditions of service are not brought forward into the new contract)

- The basis in which the Claimant (and others) were placed on fixed-term contracts, i.e. the Blue Book.

It is also worth noting that the Court examined this case through an interpretation of intent and context, as opposed to the role itself.