

When Sick Leave Becomes A Legal Risk For Employers

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The relationship between medical evidence and employment decisions is becoming an increasingly delicate one. A recent High Court decision illustrates how easily employers can misstep when illness, workplace expectations and legal obligations collide.

In *Sunshine Bread Sdn Bhd (formerly known as Auric Flavours Sdn Bhd) v Tan Seng Kok* [2025] MLJU 4354, the High Court affirmed that an employee dismissed while recovering from severe illness had been terminated without just cause or excuse, a ruling that carries wider implications for how employers manage medical leave and return-to-work decisions.

Brief Facts

The employee, an IT manager who joined Sunshine Bread in 2019, contracted Category 5 COVID-19 in mid-2021. His condition required intensive care, including intubation and ventilation. Although he survived, the recovery proved long and complicated. Post COVID complications left him with restrictive lung disease, stage 2 chronic kidney disease and mild post-traumatic stress disorder.

For nearly ten months, the employee remained on a combination of hospitalisation leave, medical leave, unpaid leave and emergency leave while undergoing physiotherapy and rehabilitation.

In April 2022, an occupational health doctor assessed the employee at the company's request and concluded that his remaining post-COVID conditions were mild and reversible and did not prevent him from returning to his role as IT manager. Relying on that assessment and report, the company directed him to resume work by 27 April 2022, warning that failure to do so could be treated as abandonment of employment.

Yet the situation was less clear-cut than the report suggested.

On the eve of the deadline, the employee informed the company that his treating doctor at Sunway Medical Centre had advised him to continue rehabilitation until the end of May. He applied for unpaid medical leave until 31 May and indicated he would return on 1 June.

The company did not respond to the request. Instead, it terminated his employment two days later for abandonment of employment, wilful insubordination and gross negligence. Only after the dismissal was issued did the employer formally reject the leave application.

The Industrial Court viewed the sequence of events unfavourably. The employee had provided a medical explanation for his absence and communicated it promptly. Given the seriousness of his illness and the ongoing rehabilitation, the Industrial Court held that this was not a typical case of workplace misconduct.

More critically, the Industrial Court found that the employer had acted in bad faith, dismissing the employee without giving him an opportunity to explain his position. The argument that the employee's absence disrupted company operations also failed to persuade the Industrial Court, largely because it had not been raised at the time the decision to terminate was made.

The Industrial Court therefore ruled that the dismissal was without just cause or excuse and awarded compensation totalling RM342,900, comprising maximum back wages and compensation in lieu of reinstatement.

High Court's Ruling

The High Court, hearing the employer's appeal, saw little reason to disturb those findings.

In dismissing the appeal, the High Court emphasised that the employer had made its decision without adequately considering the employee's explanation or the medical evidence supporting his continued rehabilitation. The occupational health report, the Court observed, was not definitive. It was merely one piece of the evidentiary picture.

Commentary

Equally problematic was the employer's attempt to justify the dismissal on grounds that were not part of its reasoning at the time. Courts tend to treat such arguments with suspicion, often characterising them as afterthoughts.

The case offers a broader lesson about the medico-legal complexities that arise when illness intersects with employment management.

For employers, prolonged medical absence can present real operational challenges. Yet the law draws a clear line between incapacity and misconduct. Illness, even extended illness, is not automatically a disciplinary matter.

Occupational health assessments, while useful, cannot be treated as conclusive when other medical opinions point in a different direction. Nor can employers ignore explanations provided by employees or the recommendations of treating doctors.

Perhaps most importantly, courts will closely examine what an employer knew and considered at the time the termination decision was made. Documentation, communication and a demonstrably fair process can make the difference between a defensible decision and an unlawful dismissal.

As workplaces continue to grapple with long-term health conditions, post-viral complications and mental health challenges, employment decisions are increasingly shaped not only by operational realities but also by medical evidence and legal risk.

In that environment, a measured and evidence-based approach is not merely good practice. It may also be the employer's best legal protection.

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