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Workplace Bullying and Harassment: Employer Held Accountable for Failure to Investigate Employee Complaints

Workplace bullying occurs when an employee experiences repeated mistreatment by another individual or group of people such as managers, colleagues or other people at work in a manner that endangers his or her physical or mental health. It can include verbal, non-verbal, psychological and physical abuse, and even humiliation.

The most common acts which constitute workplace bullying are having information withheld that affects the employee's performance; given tasks with unreasonable deadlines and targets; having opinions and views ignored; coercive behaviour directed against a person; unreasonable teasing; all forms of intimidating and threatening behaviour including physical assault; any form of demeaning behaviour which serves to denigrate the individual being attacked; and abuses of authority.

Pursuant to the Industrial Relations Act 1967, a victim may bring a claim for constructive dismissal where the circumstance surrounding the bullying is tantamount to a material breach of the employment contract by the employer to provide a safe working environment. In the case of *Justin Maurice Read v. Petroliam Nasional Berhad* (Award No. 965 of 2017), the employee complained of being assaulted and harassed by another employee in the workplace. The employee claimed that the manner in which these complaints were handled by his employer entitled him to claim that he had been constructively dismissed. The Industrial Court concluded that the conduct of the employer were serious breaches and amounted to a breach of a fundamental term of the employee's terms of employment as the employer failed to inform him of the outcome of its investigations and failed to investigate his other complaints of continued harassment, abuse and taunts by his colleagues. The Court added that the employer's conduct caused the employee to fear for his safety and wellbeing in the workplace and the employer failed to provide a safe and conducive workplace environment. Key takeaways are that employers should step up efforts to provide a safe system for victims to lodge reports quickly and effectively. Any code, guideline or policy in relation to complaints-handling should include clear timelines and the complainant should always be kept updated regarding the status of the complaint.

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