Employment & Labour - Cyprus

Court finds dismissal of bank property manager lawful

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Facts
First-instance decision
Supreme Court decision

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Facts

In *Dimitris Photiades v Alpha Bank Ltd*(1) the applicant was appointed at the bank in the position of property manager in December 1990. In September 2005, without any notice being given to the applicant, the bank terminated his employment, arguing that he had committed disciplinary offences that made continuation of the employer-employee relationship impossible. These disciplinary offences included:

- making groundless and/or false accusations and/or being abusive towards the managing director and general manager of the bank;
- being arbitrarily absent from work for a period of six days, during which he was on a family holiday, without notifying his managers; and
- improperly, and without the approval of the director general, employing estate agents to buy bank offices and paying such estate agents without producing original invoices.

Following a disciplinary procedure as prescribed in the bank's disciplinary policies and regulations, the bank disciplinary committee decided that the applicant was guilty of the above offences, and that this was the reason for the termination of his employment. The bank paid the applicant C£120,388.34 as damages, which covered his annual leave allowance, 13th-month salary allowance, bonus and voluntary fund allowance.

In response, the applicant argued that:

- the disciplinary procedure followed by the bank was inadequate, unfair, biased and generally illegal; and
- the termination of his employment was illegal (ie, unfair dismissal).

First-instance decision

At first instance, the District Court of Labour Disputes ruled that:

- the disciplinary procedure followed by the bank was lawful;
- the correct procedure had been followed, as prescribed by the bank's regulations and policies; and
- the termination of the applicant's employment reasonably arose as a result of his commission of disciplinary offences.

The applicant appealed the first-instance decision on the same grounds as his original application, arguing that:

- the disciplinary procedure followed by the bank was inadequate, unfair, biased and generally illegal; and
- that the termination of his employment was illegal.

Supreme Court decision

The Supreme Court ratified the first-instance decision and confirmed that a reasonable employer would terminate the employment of an employee who had been found guilty of disciplinary offences. In this case, a lawful disciplinary procedure had been followed and the applicant had been given the right to be heard by the bank disciplinary

committee.

In line with the first-instance court, the Supreme Court based its decision on *British Leyland (UK) Ltd v Swift*,(2) in which the test of reasonable dismissal was applied – that is, if no reasonable employer would have dismissed him, the dismissal was unfair. Having found that the disciplinary procedure followed by the bank was lawful, both courts ruled that the reasonable employer would have dismissed the applicant and thus the dismissal was lawful.

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Endnotes

(1) Civ Appeal 319/2009.

(2) (1981) 1 RLR 91.

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