

## Summary of DN v. IBRD, Decision No. 544 [2016]

The Applicant contested the Human Resources Vice President's (HRVP) finding that he committed misconduct, and opposed the disciplinary measures imposed by the HRVP. The Applicant maintained that a video of the Complainant on his iPhone was unintentionally recorded. The Applicant also argued that the EBC investigation of his alleged misconduct violated his due process rights. The Bank contended that the Applicant committed misconduct when he intentionally recorded the Complainant without her consent, and the imposed sanctions were proportionate to the offense because of the nature of the Applicant's employment. The Bank also maintained that the Applicant's due process rights were observed throughout the EBC investigation.

In its decision, the Tribunal (i) examined the existence of the facts, (ii) found that the undisputed facts legally amounted to misconduct, (iii) determined that the sanctions imposed were provided for in the law of the Bank, (iv) determined that the sanction of termination was significantly disproportionate to the offence, and (v) found that the requirements of due process were observed.

**Decision:** The Tribunal found that while the Applicant committed misconduct, in light of the circumstances of the case, the mitigating factors and the Tribunal's precedents, the disciplinary sanction of termination was significantly disproportionate. The Tribunal found that the HRVP may impose any, or a combination, of the other disciplinary measures contained in Staff Rule 3.00, paragraph 10.06, short of termination.