

CJ v. IBRD, Decision No. 497 [2014]

The Applicant challenged the decision of the Vice President, Human Resources (HRVP) that he had committed misconduct as defined by Staff Rule 3.00. The Applicant had printed a Verification of Employment Letter (EVL) generated by the Human Resources system on the Bank's intranet. That letter included the name of the Applicant's manager (the "Manager") and stated in bold and italic text: "Not valid unless signed by Manager and assigned a control number." Above this text—on the opposite side of the page from the Manager's name—the Applicant affixed his own signature. The Applicant sent the EVL to a rental agent (the "rental agent") in support of an application to rent an apartment.

A representative of the rental agent later telephoned the Manager regarding the EVL. The Manager told her he was not sure he had signed the EVL as he had no recollection of having done so. The matter was reported to EBC. EBC ascertained that the signature on the verification letter had no resemblance to the Manager's signature. The Applicant asserted that he believed that an unvalidated EVL would be sufficient for the rental agent because he was also providing paystubs and bank statements to verify his income. The Applicant told EBC that he had signed the EVL on the side of the page—as he said he had also done with copies of salary and bank statements, a copy of his drivers' license and certain other documents provided to the rental agent—as a "way of confirming that all of the photocopies were taken by me and are authentic." EBC told the Applicant that they accepted his statement about this, would "take it to the record," that the fact of his having signed other documents in the same way would reinforce his case and that they would "take [his] statement for those purposes."

Based on EBC's Final Report of Findings, the HRVP determined that the Applicant had committed misconduct by forwarding the EVL to the rental agent with a signature that was not the Manager's and attempting to mislead the rental agent that the EVL had been signed by the Manager. The Tribunal noted that whether an attempt to mislead the rental agent could be reasonably inferred from the fact that the Applicant had not marked the EVL as a draft or written his name under his signature hinged on whether a reasonable person would have understood that the signature on the EVL was the Applicant's and not the Manager's. The burden was on the Bank to establish to the "more than a mere balance of probabilities" standard that the Applicant attempted to mislead the rental agent as alleged.

Notwithstanding the EBC investigators' assurance that the Applicant's claim that all the items accompanying the EVL were signed in the same way would be taken into account, this assertion went unmentioned in the body of the EBC Report, as did the fact that the wording of an e-mail sent by the rental agent to the Manager may corroborate the Applicant's claim that the rental agent understood the signature on the EVL was the Applicant's. This omission of potentially significant exculpatory evidence in the body of the Report suggested relevant facts were not

This summary is provided to assist in understanding the Tribunal's decision. It does not form part of the reasons for the decision. The full judgment of the Tribunal is the only authoritative document. Judgments are available at: www.worldbank.org/tribunal

drawn to the attention of the HRVP before he made his disciplinary decision. This conclusion was buttressed by the fact that when the Applicant wrote to the HRVP requesting that he reconsider his disciplinary decision and referring to his claim to have signed the entire package of documents in the same way, the HRVP asked for supporting evidence of this claim.

The Tribunal was not convinced that the EBC investigators made reasonable inquiries into the exculpatory evidence to which the Applicant drew their attention. EBC could have proposed that he request copies of the documents sent to the rental agent shortly after the application process was complete and he had secured accommodation or that they themselves would contact the rental agent after a suitable period to obtain a statement as part of their duty to seek both inculpatory and exculpatory evidence. In all the circumstances, the Tribunal concluded that the record did not establish the Applicant attempted to mislead the rental agent.

The Tribunal was not convinced that, in the circumstances of the case, the Applicant's inclusion of an unvalidated EVL in the package he sent the rental agent rose to the level of unprofessional conduct or of conduct not befitting an employee of an international organization. No misrepresentation had been established. Nor had any intent to mislead the rental agent. The record suggested the only thing the Applicant attempted to achieve was to avoid an interaction with a Manager with whom he perceived a very stressful relationship.

The findings in the HRVP's decision letter and the disciplinary measures imposed were rescinded. The Bank was ordered to remove from the Applicant's personnel file all records relating to the allegations of misconduct, including the EBC Report and the decision of the HRVP, and to pay the Applicant compensation in the sum of six months' salary, net of taxes, based on the last salary drawn by the Applicant.