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Wrongful Dismissal | Probation

Dismissals During Probation: A Wrongful Dismissal Decision

In *JIW v JIX* [2026] SGECT 7, handed down on 28 July 2026, the Employment Claims Tribunals (**ECT**) ruled that a probationer dismissed for poor performance had been dismissed without just cause or excuse. The reason: her employer could not prove that the scores and ratings underlying her failing result were justified, having never told her what a passing standard required.

Background

The claimant (**Probationer**) was employed on 21 April 2025 as a regional internal control audit manager on a six-month probation. Shortly before expiry of that period, on 16 October 2025, she was told her performance did not meet the standards for confirmation and was given two weeks' notice. She brought an ECT claim under section 14(2) of the Employment Act 1968, alleging dismissal without just cause or excuse.

The employer (**Employer**)'s probation process set two requirements for confirmation: (a) an overall score of at least 80% for agreed performance goals; and (b) an average rating of at least 3 out of 5 across 10 functional competencies (collectively, **Suitability Standards**).

The Probationer had attained an overall score of 71% and an average competency rating of 2.4, rounded down to 2. The burden of establishing the allegation of poor performance rested with the Employer under section 27(2)(b) of the Employment Claims Act 2016.

The Probationer advanced her case on three grounds: unproven poor performance, discrimination based on her inability to read, speak, write, or understand Korean, and retaliation for "whistleblowing". On the performance ground, the Probationer did not challenge the Suitability Standards themselves but whether the individual scores and ratings that produced her aggregate result were justified. Her reporting supervisor (**RS**) had neither explained what each competency required at the outset nor conducted any periodic documented reviews that the Employer's process mandated.

The ECT's Decision

Finding that the Employer had not proven the Probationer had fallen below its Suitability Standards so as to constitute just cause or excuse, the ECT awarded the maximum sum of $30,000 for wrongful dismissal. The ECT dismissed the Probationer's discrimination and whistleblowing claims for lack of objective evidence.

Employers can calibrate suitability standards but must be prepared to justify them

The ECT accepted that employers should be afforded latitude to calibrate the suitability standards each position requires and that the ECT should not sit as a superior manager. However, because the Suitability Standards were expressed as aggregate thresholds derived from individual scores and ratings, the Employer had to establish that those individual assessments were themselves justified. This, it failed to do.

The performance standards for the six contested competencies were qualitative and not naturally capable of objective measurement. That vagueness was not necessarily fatal. The Employer's own probation process required the RS to explain clearly what each competency meant and what a passing rating required within the first week, followed by periodic documented reviews. But the RS acknowledged that she had done none of these. Those reviews would have given the Probationer clear notice of the standards and given the RS' ratings a documented foundation.

Mere impressions may not qualify as performance ratings or benchmarks

While the probation evaluation form provided a dedicated column for justifying each rating, every entry in the Probationer's form was left blank. The only justifications were given orally at the ECT hearing. The RS' observations — e.g., that the Probationer "could have a bit of difficulties in teamwork", "might not be that passionate" about tasks unrelated to internal control over financial reporting (**ICFR**), was inattentive when business and operations were explained, and "could be more proactive to make more decision" for non-ICFR tasks — did not withstand scrutiny.

To the ECT, those impressions revealed a supervisor who had formed a view of the Probationer but could not explain the standard against which that view was formed, nor demonstrate that the Probationer had been measured against it in any principled way. The ECT observed that identifiable shortcomings are not the same as proven failures against a defined standard, and that the ratings produced by this process were, in substance, the RS' impressions "dressed up" as a suitability review.

Deductions must be tied to proven deficiencies and standards must be communicated in advance

On the performance goals, the ECT accepted that certain shortcomings were proven. However, a proven deficiency did not automatically constitute a proven basis for the deduction applied to the Probationer.

Where a standard had not been communicated with sufficient clarity for the Probationer to conform her conduct to it, there would be considerable difficulty accepting the deduction as demonstrating inability to meet it. A deduction of 25 points on a goal carrying 20% weightage denoted significant underperformance and was disproportionate, especially as this would have adversely impacted her suitability for employment.

The ECT also held that an employer cannot impose such serious consequences on a probationer for failing to meet a standard that was never clearly communicated to the probationer.

Undisclosed scoring methodology and silent reweighting are impermissible

Two further difficulties arose. First, the RS never communicated how scoring for a composite goal would work or that a single incomplete task would attract a 40-point deduction. Second, the RS unilaterally transferred the 10% weightage from a removed goal to another, effectively doubling that goal's significance from 10% to 20% without telling the Probationer. The Employer was therefore not allowed to rely on a scoring process that it had not disclosed in order to establish that the Probationer's performance fell below the suitability threshold.

Standards which should be articulated or which may be assumed

The ECT cautioned that it was not endorsing an absolute requirement for employers to exhaustively articulate every performance standard for every employee. Where failings are so material that any reasonable employer would regard them as gross incompetence, or where the employee is sufficiently senior that competent performance can reasonably be assumed, prior articulation may be unnecessary.

This was not such a case. Although the Probationer was an experienced audit professional, the criticisms of her concerned peripheral and administrative matters, not failures of audit judgment. Her audit experience did not tell her what this Employer expected in terms of presentation or administrative responsibilities alongside core audit work.

Compensation awarded

The ECT was satisfied that the Probationer would have been employed for at least a further three months under an extended probationary period if not for the wrongful dismissal. At a gross monthly pay of $11,500, her full three-month loss of income came to $34,500, but the prescribed claim limit of $30,000 at the ECT constrained the award.

The ECT observed that, had the ceiling permitted it, it would have awarded an additional two months' salary for harm, given that the dismissal was both sudden and unjustified and would have occasioned the Probationer considerable distress.

Key Takeaways

This decision reinforces the following practical points for employers in their performance management/appraisal processes for employees, whether probationary or confirmed:

- **Communicate performance standards upfront and in a clear manner.** Performance-based terminations must be capable of substantiation, even if they occur during the probation period. Employers retain latitude to set and calibrate suitability standards and scoring methodologies for each role. However, employers' assessments must be justified and referable to defined standards and methodologies that are communicated clearly to the employee beforehand.

- **Document and be prepared to substantiate observations; do not arrive at conclusions based on mere impressions.** Performance reviews must be grounded in documented observations against defined criteria and should not be based on one's impressions (retrospective or otherwise) of an individual. Employers must be prepared to substantiate their conclusions in the event of challenge. This is best supported by a contemporaneous record.

- **Build a contemporaneous record.** The burden of proving poor performance rests squarely on the employer. That means documenting reviews properly, providing timely feedback and following relevant internal processes. The later a record is entered, the more easily it can be challenged as an afterthought or lacking in credibility.

If you would like information and/or assistance on the above or any other area of law, you may wish to contact the Partner at WongPartnership whom you normally work with or any of the following Partners:

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