

FIRST DIVISION

[G.R. No. 168215, June 09, 2009]

**LBC EXPRESS - METRO MANILA, INC. AND LORENZO A. NIÑO,
PETITIONERS, VS. JAMES MATEO, RESPONDENT.**

D E C I S I O N

CORONA, J.:

Respondent James Mateo, designated as a customer associate, was a regular employee of petitioner LBC Express - Metro Manila, Inc. (LBC). His job was to deliver and pick-up packages to and from LBC and its customers. For this purpose, Mateo was assigned the use of a Kawasaki motorcycle.^[1]

On April 30, 2001 at about 6:10 p.m., Mateo arrived at LBC's Escolta office, along Burke Street, to drop off packages coming from various LBC airposts. He parked his motorcycle directly in front of the LBC office, switched off the engine and took the key with him. However, he did not lock the steering wheel because he allegedly was primarily concerned with the packages, including a huge sum of money that needed to be immediately secured inside the LBC office. He returned promptly within three to five minutes but the motorcycle was gone. He immediately reported the loss to his superiors at LBC and to the nearest police station.

LBC, through its vice-president petitioner, Lorenzo A. Niño, directed Mateo to appear in his office to explain his side and for formal investigation.^[2] As directed, Mateo appeared and presented his side. After investigation, he received a notice of termination from LBC dated May 30, 2001.^[3] He was barred from reporting for work.

Mateo thereafter filed a complaint for illegal dismissal, payment of backwages and reinstatement with damages. After the parties submitted their respective position papers, the labor arbiter found Mateo's dismissal to be lawful on the ground that he was grossly negligent.^[4]

Mateo appealed to the National Labor Relations Commission which, however, affirmed the labor arbiter's decision.^[5]

In resolving Mateo's petition for certiorari, the Court of Appeals (CA) ruled that Mateo was illegally dismissed.^[6] Furthermore, due process was not observed in terminating Mateo's employment with LBC. The motion for reconsideration was denied.

LBC and Niño now seek a reversal of the CA decision. They contend that Mateo was grossly negligent in the performance of his duties and that habituality may be dispensed with, specially if the grossly negligent act resulted in substantial damage

to the company.

We agree.

The services of a regular employee may be terminated only for just or authorized causes, including gross and habitual negligence under Article 282, paragraph (b) of the Labor Code.

Gross negligence is characterized by want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally with a conscious indifference to consequences insofar as other persons may be affected.^[7]

Mateo was undisputedly negligent when he left the motorcycle along Burke Street in Escolta, Manila without locking it despite clear, specific instructions to do so. His argument that he stayed inside the LBC office for only three to five minutes was of no moment. On the contrary, it only proved that he did not exercise even the slightest degree of care during that very short time. Mateo deliberately did not heed the employer's very important precautionary measure to ensure the safety of company property. Regardless of the reasons advanced, the exact evil sought to be prevented by LBC (in repeatedly directing its customer associates to lock their motorcycles) occurred, resulting in a substantial loss to LBC.

Although Mateo's infraction was not habitual, we must take into account the substantial amount lost.^[8] In this case, LBC lost a motorcycle with a book value of P46,000 which by any means could not be considered a trivial amount. Mateo was entrusted with a great responsibility to take care of and protect company property and his gross negligence should not allow him to walk away from that incident as if nothing happened and, worse, to be rewarded with backwages to boot.

An employer cannot legally be compelled to continue with the employment of a person admittedly guilty of gross negligence in the performance of his duties.^[9] This holds true specially if the employee's continued tenure is patently inimical to the employer's interest. What happened was not a simple case of oversight and could not be attributed to a simple lapse of judgment. No amount of good intent, or previous conscientious performance of duty, can assuage the damage Mateo caused LBC when he failed to exercise the requisite degree of diligence required of him under the circumstances.

LBC and Niño likewise assail the CA's finding that procedural due process was not observed in effecting Mateo's dismissal. Specifically, the CA held that the first written notice (for Mateo's investigation) allegedly did not specify the grounds for termination required by the implementing rules of the Labor Code. Mateo was allegedly not properly apprised of the grounds for his investigation. We disagree.

The memorandum directing Mateo to be present for investigation clearly provided the reasons or grounds for Mateo's investigation. As stated there, the grounds were the "alleged carnapping of the motorcycle and the alleged pilferage of a package." Nothing could be clearer. What the law merely requires is that the employee be informed of the particular acts or omissions for which his dismissal is sought.^[10] The memorandum did just that. Mateo was thereafter given the opportunity to