

# Employee must report sickness in 2 days



## LEGAL VIEW ASHISH MEHTA

I was absent from work in a Dubai company on December 27 and 28 (two days) last year due to an illness. I could not inform the office about the same. For that, our Human Resources Department has taken disciplinary action against me.

1) They withheld my whole month's salary; 2) stopped me from coming to work and told me to be on leave without pay for 10 days; 3) told me to clear all outstanding money I had taken from the office at one go; and 4) shifted me from the Sharjah branch to the Dubai branch without consent or notice.

Is this fair? Why am I not being allowed to join work? Why should I accept their leave without pay? I am a woman who is financially dependent on the company salary for surviving in a foreign land. My rents and bills are due. My company has put me into financial trouble for being absent for only two days. Isn't this violation of the Labour Law?

It is understood that you are employed by an entity registered in Dubai which has its branch in Sharjah, and that you could not attend office for two days owing to illness and that you could not inform your office about the same. As a result of this, the HR Department of your employer decided to take disciplinary action against you. It is presumed that your employment is subject to provisions of the Federal Law No. 8 of 1980 on the Regulation of Labour Relations (the "Labour Law").

Pursuant to your question, it may be noted that if an employee contracts an illness not resulting out of an employment-related injury, the employee must report about his/her illness within a maximum of two days. This is in accordance with Article 82 of the Labour Law which states:

"Where a worker contracts an illness otherwise than as a result of an employment injury, the worker shall report his illness within a maximum of two days

and the employer shall thereupon take the necessary steps to have the worker medically examined immediately for the purpose of verifying his illness."

In view of this, it may be noted that you were absent from work for two days without informing your employer and you reported to your work on the third day. Considering this, your employer may initiate disciplinary action against you. However, you may rely on Article 83 of the Labour Law to plead with your employer that you are entitled to sick leave which states:

"1) The worker shall not be entitled to any paid sick leave during the probation period; and 2) If the worker completed more than three months after the probation period in the continuous service of the employer and falls ill, he shall be entitled to sick leave not exceeding 90 days whether continuous or otherwise, in respect of every year of service. Such leave shall be calculated as follows:

- a) The first 15 days with full pay;
- b) The next 30 days with half pay; and
- c) Any subsequent periods without pay."

The various other penalties being imposed on you as part of disciplinary action such as holding full one-month's salary and not allowing you to attend work are not in accordance with those prescribed by the Labour Law and, as such, they are in gross violation thereof. However, transferring you to the Dubai branch of the employer and seeking immediate repayment of loan taken by you from the employer are at the discretion of the employer.

### No ban after two years at managerial level

I am presently working as an assistant manager in a Dubai-based LLC company for the last seven years. I have a 'Limited' period labour contract with my employers which will expire in November 2015. The labour contract states Federal

Act No. (8) for the end-of-service benefits and Clause 120 of Federal Law No. (8) of 1980 if employer wants to terminate the services of an employee.

I want to know if I resign before the expiry of my contract period, what kind of ban my employer can impose on me? Also, if I resign after the expiry of my contract, will there be any ban on me? My employer had put one-year ban on my ex-colleague who had an 'unlimited' labour contract.

It is understood that you are working as an assistant manager at an entity based in Dubai for the last seven years under a limited-period contract which is set to expire in the month of November this year. Further, it is understood that your employment is subject to the provisions of Federal Law No (8) of 1980 (the "Labour Law").

It is learnt that in the event of termination of an employment contract under the volition of the employee, an employer has a right to seek a labour ban on such an employee. However, it may be advised that your employer may not be able to impose any labour ban on you, should you choose to resign from your employment before the expiry of your employment contract, as you have already completed seven years of employment with your current employer and that you are holding a managerial position. This is due to the reason that labour bans are not imposed upon employees who have continuously worked for two years or more. This is in accordance with the provisions of Article 2 of the Ministerial Resolution No. 1186 of 2010 which states:

Likewise, your employer also may not impose a ban even if you choose not to renew your employment contract after the expiry of the employment contract as you would be duly completing the period of employment mentioned in the employment contract.

However, it may also be noted that if a labour ban does get imposed on you, you may contest such a ban and try to have it removed if your subsequent employer is offering you the prescribed salary pertaining to your educational qualifications. This is in accordance with Article (4) of the

Ministerial Resolution No. 1186 of 2010 which states:

"As an exception to the provision of Item No. (2) of Article (2) of this Resolution, the Ministry may issue a work permit to the employee without requiring the two-year period in the following cases:

- a) In the event that the employee is starting his new position at the first, second or third professional levels after fulfilling the conditions for joining any of these levels according to the rules in force at the ministry, and provided that

his new wage is not less than Dh12,000 at the first professional level, Dh7,000 at the second professional level and Dh5,000 at the third professional level;

- b) In the event that the employer violates his legally stipulated obligations to the employee, or in the event that the employee is not the cause for terminating the work relationship as mentioned in Article (3) of this Resolution; and

- c) In the event that the employee moves to another establishment owned solely or jointly by the same employer."

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