



Compensate employer if you don't serve notice period



LEGAL VIEW
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I have been working at an entity based at the Jebel Ali Free Zone (JAFZ) in Dubai for the last 20 months. I submitted my resignation on a notice period of 15 days instead of the required 30 days, as I had to return to my home country urgently. The company had sent me for offshore field service jobs and also gave me some training during this period. The company has asked me to repay the money it spent on my visa and training, along with 45 days' full salary, to proceed with the cancellation process. Do I have to pay the money?

You have not mentioned about the nature of your employment contract as to whether the same is of limited or unlimited duration. And therefore, our response is based on your working on a unlimited period employment contract vis-à-vis limited period employment contract. In accordance with the labour regulations applicable at the JAFZ, the presence of a written contract drawn on JAFZA template signifies the existence of a limited period contract. Otherwise, it is presumed that the employer and the employee have an unlimited period contract between them. Owing to this, the rules pertaining to termination of employment will follow the provisions of the Federal Law No 8 of 1980 on the Regulation of Labour Relations (the 'Labour Law').

In view of the foregoing, if your employment contract is of unlimited duration, then you are within your rights to terminate your employment by giving a prior notice of 30 days. This is in accordance with Article 117 of the Labour Law which states:

"(1) Both the employer and the worker may terminate a contract of employment of unlimited duration for a valid reason at any time following its conclusion by giving the other party notice in writing at least 30 days before the termination."

However, it may also be noted that if the employee fails to give

proper notice of termination or reduces the period of notice, then he shall be liable to compensate his employer for the number of days so reduced. This is in accordance with Article 119 of the Labour Law which states:

"Where an employer or a worker fails to give the other party notice of the termination of the contract or reduces the period of notice, the party obliged to give notice shall pay the other party compensation, called 'compensation in lieu of notice' even where no prejudice has been sustained by the other party as a result of such failure or reduction. The said compensation shall be equal to the worker's remuneration in respect of the entire period of notice or the time by which it was reduced. Compensation in lieu of notice shall be calculated on the basis of the remuneration last received, the case of worker remunerated on a monthly, weekly, daily or hourly basis or in the case of a worker remunerated at piece rates, on the basis of the average daily remuneration referred to in article 57 of this Law."

Pursuant to the foregoing, if you were employed under an unlimited period contract, and you had given a prior notice of 15 days instead of the required 30 days, then you shall be liable to compensate your employer for the reduced period of notice that is, your salary for 15 days calculated on the basis of your last drawn full salary.

If however, your employment was of limited duration, you will be liable to compensate your employer with an amount equal to your 45

days' remuneration. This is in accordance with Article 116 of the Labour Law which states:

"Where a contract is revoked by the worker for reasons other than those specified in Article (121), he shall be required to compensate the employer for any damage the latter sustains as a result, provided that the amount of compensation shall not exceed half a month wage for three months or for the remaining period of the contract, whichever is shorter, unless otherwise stipulated in the contract."

In view of this, you may be required to compensate your employer for an amount, which is equal to your salary for 45 days.

Further, you are not required to repay your employer for the cost of your employment visa, as this is against the laws of the UAE. The issue of repayment of training expenses will depend on the applicable regulations in JAFZ and also in accordance with the specific terms in your employment contract with respect to training.

In view of the foregoing, you may try and prevail upon your employer to cancel your visa in accordance with the law. However, if you and your employer fail to settle the matter amicably, in accordance with the provisions of law, you may consider to approach the relevant section at Jebel Ali Free Zone Authority, which deals with the disputes between the employers and employees.

Procedure to file cheating case An individual — whom I will call Mr X — established an LLC (company with the limited liability) in 2013 with another person as partner. On two occasions, his company conducted commercial transactions with

me and owes my company Dh.16,825/ in toto. He is yet to pay this outstanding amount and it stands long overdue. However, Mr X has closed the first entity, and has now started another entity, and this new entity supposedly has sufficient money in its bank account. I haven't taken any post-dated cheques (PDC) from him but have copies of local purchase order (LPO), invoice and delivery order (DO) signed by him. How can I claim my money? Can this be considered as a cheating case? How much will be the expenses for the court and lawyer fee?

Pursuant to your question (as I understand it), it is not clear as to whether the first entity owned by Mr X has been liquidated or whether the entity has merely stopped its business. In the event the debtor's entity has not been liquidated, you may file a suit in a civil court of competent jurisdiction. The transactions in question are commercial transactions between two entities resulting in one entity owing money to the other entity. Disputes over such business transactions are civil in nature and therefore would normally not give rise to any criminal liability. You would not have a bona fide claim against the new entity in which Mr X is a shareholder as the outstanding amount is owed to you by a different entity.

The existing copies of the local purchase orders, the invoices and the delivery orders may be held as sufficient evidence for supporting your claim if the documents as such are not barred by the laws of limitation in the court of competent jurisdiction.

Further, since you have not mentioned the emirate where your claim emerges from, we may not advise you the proper court fees that would be chargeable in such claims as the court fee in Dubai varies from court fee applicable in other emirates. It is advised that you should take further assistance of a legal practitioner in the UAE who could provide comprehensive counselling and litigation support with respect to your matter.

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