

NATION

Your employer can deduct salary only if ...



LEGAL VIEW

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I have a contract with my company for three years. The company has deducted a portion of my salary and told me they will refund the amount only after the completion of three years. They have also taken my BE certificate without any receipt. When asked for receipt, the company owner just waved me off, and I didn't press the issue.

If I want to quit this job at the end of the first two years of service and serve a one-month notice period, can the employer impose a ban on me?

Also, as I have no receipt for my BE certificate, how can I legally compel the company to return the certificate?

Your employer cannot deduct a portion of your salary without valid reasons as mentioned in Article 60 of the Federal Law No. 8 of 1980 regulating Employment Relations in the UAE (the 'Employment Law'). It states as follows: "No amount of money may be deducted from a worker's remuneration in respect of private claims, except in the following cases:

(a) the recovery of advances or amount of money paid to the worker in excess of his entitlements, on condition that the amount deducted in this case does not exceed 10 per cent of his periodic remuneration;

(b) contributions which the worker is required by law to pay from his remuneration, e.g towards social security and insurance schemes;

(c) the worker's contributions to a savings fund or repayment of advances repayable thereto;

(d) contributions towards any welfare scheme or in respect of any other privileges or services provided by the employer and approved by the labour department;

(e) fines imposed upon the worker for any offence he has committed;

(f) any debt payable in execution of the judgement of a court of law, provided that the deduction shall not exceed one quarter of the worker's remuneration. Where two or more debts are payable, the maximum shall be half the worker's remuneration and the sums of money attached shall be divided pro rata among the beneficiaries, after payment of any legal alimony

at the rate of one-quarter of the workers remuneration."

Pursuant to the aforementioned provisions it appears that the deduction made by your employer is not in accordance with the law.

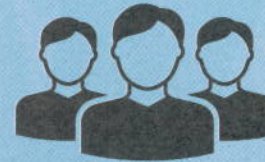
Since you have completed more than six months of employment and we assume your contract is unlimited in nature, you are eligible to terminate your employment contract by serving notice.

The notice period for termination is as mentioned in your contract and your employer cannot impose a ban.

This is also in accordance with Article 1 II(2) (for unlimited contracts) of Ministerial Decree 766 of 2015 which states: "A new work permit may be granted to a worker upon the termination of the said worker's employment relation in the following instances:

"One of the parties acts to terminate the contract and notifies the other party and continues to honour his/her obligations under the contract for the duration of the notice period which shall be no less than one month and no more than three months, provided the worker has completed a period of

no less than six months with the employer; the latter provision is



Know the law

It is the duty of the employer to return any certificates, documents and tools belonging to the worker at the latter's request and on the termination of his contract.

waived for workers that qualify for skill levels 1, 2 and 3, as per the ministry's classification."

Further, your educational certificates are your personal documents and the employer is obligated to provide you with the receipt of safe keeping.

However, you have the right to ask your employer to return it at any time.

This is in accordance with Article 125 of the Employment Law which states: "An employer shall provide a worker, at the latter's request and on the termina-

tion of his contract, with a certificate of termination of service, which shall be free of charge; it shall specify the dates of his entering and leaving the employer's service, his total period of service, the nature of the work he has performed, his last remuneration and any bonuses he has received. It shall also be the duty of the employer to return any certificates, documents and tools belonging to the worker." If your employer is not following the aforementioned provisions of the law, you may file a complaint at the Ministry of Human Resources and Emiratisation.

Renewal of contract

I have been working for an LLC in Dubai for two years and my renewal is coming up in a few weeks. The company has given no indication of whether they'll renew the contract. I feel that they may not renew it and I've started searching for jobs.

I was wondering whether it is legally mandatory for an employer to give a month's notice to employees in cases of non-renewal of contract?

It is advised that you inform your employer that you shall not be re-

newing your employment contract. In the event you continue to work upon completion of your employment contract with your employer then it is implied you are renewing your contract.

This is in accordance with Article 40 of the Federal Law No. 8 of 1980 regulating Employment Relations in the UAE (the 'Employment Law') which states: "If the two parties continue to work after the expiry of the contract, without pressing agreement, after the expiry of its initial period or after completion of the work, the original contract shall be deemed to have been tacitly renewed on the same conditions as those already contained therein other than the condition regarding its duration."

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