

Resignation not being accepted? MoL will come to your rescue



LEGAL VIEW Ashish Mehta

I have been working with a private company in Umm Al Quwain for the last three years and have now completed my first two years of contract. Currently I am working on my second (renewed) employment visa. I recently received a better offer from another company based in Dubai. I have given my current employer a one month notice but he is not relieving me from my duties. Kindly advise what I should do if he doesn't accept my resignation

Pursuant to your queries, we assume that you are on unlimited employment contract and you have served a one month termination to your employer in accordance with Article 117 of the Federal Law No. 8 ("Labour Law") of the UAE, 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."

In view of the aforesaid you may file a complaint with the Ministry of Labour against your current employer who refuses to accept your resignation. Pursuant to this, the Ministry of Labour will call upon your current employer to accept your resignation. In the event your current employer fails to accept your resignation you may seek a letter from the Ministry of Labour which will enable you to file a case against your employer before the court of competent jurisdiction in Umm Al Quwain.

Can one take up job offer from competitor company? I recently joined a construction company in Abu Dhabi as a Quality Engineer under an un-



limited employment contract. My labour contract prohibits me from taking up a new employment with a competitor of my current employer within the UAE for a period of one year after termination of my current employment in accordance with Article 127. It is further mentioned by you that the said 'non-compete' clause is in accordance with Article 127 of the Federal Law No. 8 of 1980 ("Labour Law"). Will this cause a ban for me if I resign from this company? Please clarify Article 127.

Pursuant to your queries, Article 127 of the Labour Law states: "Where the work assigned to a worker allows him to become acquainted with the employer's clients or to become familiar with the secrets of his business, the employer may require him to refrain, after the termination of his contract, from competition with him or participating in any enterprise competing with his own. Such agreement shall be valid only on

condition that the worker is at least 21 years of age at the time of its conclusion that the agreement is limited, as regards the time, the place and the nature of the business, to the extent necessary to safeguard the employer's lawful interests."

The aforementioned article of Labour Law refrains an employee to work with the competitor of his current employer upon termination of his contract for a period of one year. You have mentioned that you are currently employed on an unlimited employment contract whereas Article 127 of the Labour Law is applicable to employees working on a limited contract.

Ashish Mehta is the founder and Managing Partner of Ashish Mehta & Associates. He is qualified to practise law in Dubai, the United Kingdom, Singapore and India. Full details of his firm on: www.amalawyers.com. Readers may e-mail their questions to: news@khaleejtimes.com or send them to Legal View, Khaleej Times, PO Box 11243, Dubai.