

Can I claim compensation for maternity leave if sacked?



ASHISH MEHTA
LEGAL VIEW

Q: I have been on unpaid leave for the past six months. Keeping in mind the Covid-19 situation, I had to accept it. I am seven months pregnant and due for delivery on November 12. Although my employer is yet to confirm the further course of my job, I have been informed by my colleagues that my employment might be terminated. I would like to know if I can claim compensation from my employer for my maternity leave (three months' basic salary) in case they terminate my employment after September 30?

A: Pursuant to your queries, we assume that you are employed with an employer who is based in the mainland of UAE. Therefore, the provision of Federal Law No. (8) of 1980 regulating employment relations in the UAE (the 'Employment Law') and the provisions of Ministerial Resolution No. (279) of 2020 concerning the employment stability in establishments of the private sector during the application of precautionary measures to control novel coronavirus outbreak (the 'Ministerial Resolution No. 279 of 2020') are applicable.

It should be noted that an employer may put an employee on unpaid leave during the pandemic once he/she agrees. However, if your employer terminates you from your employment, he may have to pay you housing allowance and other entitlements, except the basic salary mentioned in your original employment contract, until you find a new employment in the UAE or until you leave the UAE.

As you are pregnant and expect to deliver your child soon, you may also be entitled for maternity leave with full pay if you have completed one year of continuous service with your employer. On the other hand, you are entitled for full pay of 45 days towards maternity leave but not basic salary of three months as mentioned in your query. This is in accordance with Article 30 of the Employment Law.

Based on the aforementioned provision of law, your employer may not be in a position to merge your other leaves, including your unpaid leaves, with the maternity leave. You are also entitled for gratuity for the period of employment with your employer, excluding the days of absence without pay, if you have

Know the law



An employee is entitled for gratuity for the period of employment with his employer, excluding the days of absence without pay, if he has completed one year of continuous service with the employer.

completed one year of continuous service with your employer. This is in accordance with Article 132 of the Employment Law. Further, the current period of unpaid leave may not be added as period of employment with your employer while calculating your gratuity. Further, as per provisions of Article 79 of the Employment Law, you may be eligible for salary for the period of annual leave you have not availed during the period of your employment with your employer.

In the event your employer terminates you from employment and does not provide you with aforementioned benefits including maternity

leave salary, then you may approach the Ministry of Human Resources & Emiratization and file a complaint.

Planning to vacate flat? 3-month written notice must

Q: My husband and I were living in an apartment in Dubai for over 16 years. Our deposit of Dh1,000 is with the landlord. In April this year, I submitted paperwork to the landlord regarding loss of employment of my husband and myself, requesting for rent reduction. We told him that we will be vacating in July. He did not reduce the rent and told us very clearly that we do not need to give a formal three months' notice to vacate the apartment. We vacated the apartment in July and did not have a single missed rent installment. Now I have been emailing him for the refund of deposit, he said that we did not give three months' notice, so we will not get the deposit back. I reminded him of the waiver of the notice, but he is not replying to my emails. What can I do to get my deposit back?

A: We assume that you and your husband vacated your previous rented apartment prior to expiry of the tenancy contract term. As your rented apartment was situated in the emirate of Dubai, the provisions of Law No. (26) of 2007 regulating the relationship between landlords and tenants in the emirate of Dubai, (the 'Dubai Rental Law'), the provisions of Law No. (33) of 2008 amending law no. 26 of 2007 regulating the relationship between landlords and tenants in the emirate of Dubai (the 'Amended Dubai Rental Law') and the provisions of Federal Law No. (5) of 1985 on the civil

Know the law



When entering into a lease contract, the landlord may obtain from the tenant a security deposit to ensure maintenance of the real property upon the expiry of the lease contract, provided that the landlord undertakes to refund such deposit or remainder thereof to the tenant upon the expiry of the lease contract

transactions law of the United Arab Emirates (the 'Civil Transactions Law') are applicable.

It should be noted that whenever a tenant notifies the landlord about his intent to make amendments in the tenancy contract or to serve a notice of vacating the rented premises, it is recommended that he submits his requests or notice in writing. Even though the tenant is not renewing his tenancy contract, it is his responsibility to serve 90 days of notice period to the landlord.

Further, as a tenant it is your right to receive the security deposit from your previous landlord while you had vacated the rented apartment

However, your previous landlord currently denies that you had served three months' notice related to vacating the rented apartment. Based on this, the onus is on you as the claimant to prove that the three months' notice has been served.

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.