

Help! I was fired while I was stranded in home country



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LEGAL VIEW

Q: I received the letter of redundancy from my employer while I was on my annual vacation in my home country. I was supposed to return to the UAE on March 30 after my annual leave. However, I was not able to do so due to the prevailing Covid-19 pandemic. Can my employer terminate me while I am in my home country on annual vacation? Can the employer cancel my residence visa while I am outside the UAE?

A: We assume that you have received the letter of redundancy from your employer while you are in your home country after the completion of your annual vacation. It is also assumed that your employer is incorporated in the mainland of the UAE and therefore, the provisions of Federal Law No. (8) of 1980 regulating employment relations in the UAE (the 'Employment Law') shall be applicable.

In response to your first query, it may be noted that as per the provisions of the Employment Law, an employer may not terminate an employee while he is on annual leave.

However, taking into account that you received a letter of redundancy from your employer after your annual vacation ended and considering that you are currently outside the UAE due to which you are unable to resume work, it may be noted that your employer may be permitted to terminate your employment contract while you are outside the UAE. This is in accordance with Article 120 (j) of the Employment Law, which states:

"An employer may dismiss an employee without notice if the employee:

(j) absents from his work without a valid reason for more than 20 non-consecutive days or more than seven consecutive days."

Based on the aforementioned provisions, your employer may be permitted to terminate your employment contract. However, if you opine that the termination of your employment contract is arbitrary, you may approach the Ministry of Human Resources and Emiratization (the Mohre) and thereafter, the court which has jurisdiction to hear the matter if necessary. Further, you may also claim compensation of up to three months' salary for arbitrary dismissal from your employment.

In response to the second part of your query, it may be noted that an employer may be able to cancel the work permit and

residence visa of an employee while he is outside the country provided the employer has obtained a signed work permit cancellation document from its employee. An employee has to sign the work permit cancellation document and only based on that the Mohre cancels the work permit of an employee. Thereafter, based on the work permit cancellation, the employer is in a position to cancel the residence visa of its employee with the General Directorate of Residency and Foreigners Affairs. There-

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The government of UAE has confirmed that all the residence visas of the expatriates who are inside the country and outside the country which expired since March 1, 2020, are valid until December 31, 2020.

fore, in your case we assume that you have not signed the work permit cancellation document and since your stay outside the UAE is on legitimate grounds, your employer may not be in a position to cancel your work permit and your residence visa without your signed work permit cancellation document.

In furtherance, it may be pertinent to note that the government of UAE has confirmed that all the residence visas of the expatriates who are inside the country and outside the country which expired since March 1, 2020, are valid until December 31, 2020, and therefore, you may return to the UAE upon the commencement of regular inbound flights. In view of the foregoing, you may amicably reach a settlement with your employer related to your employment and if your employer disagrees with you, it is recommended that you file a complaint with the Mohre against your employer for the arbitrary termination of your employment while you were outside the UAE.

How to return to UAE with your newborn

Q: I am a resident of UAE and travelled to Pakistan to give birth to my baby. I was planning to return to the UAE after delivery by the end of March. However, due to the Covid-19 pandemic, regular inbound and outbound flights in the UAE were stopped and I was not able to return to the UAE as planned. I have a valid UAE residence visa and wish to return to the UAE to be with my husband who is in the UAE, considering that the UAE government has allowed its residents who are outside the country to come back from June 1. My daughter is four months old and

she is not a resident of the UAE as she was born in Pakistan. However, she has a valid Pakistan passport and juvenile card issued by the respective authority in Pakistan. Is it possible for me to travel along with my daughter? Will she be issued a visit visa on special circumstance or a visit visa on her arrival in the UAE?

A: Pursuant to your queries, as a parent you may apply for a UAE visit visa for your daughter prior to your travel to the UAE. Further, if your husband is a resident in the UAE, he may obtain an e-visit visa for your daughter to travel to the UAE. On the other hand, if your husband's salary is Dh4,000 or Dh3,000 if accommodation is provided by his employer, it makes him eligible to apply for a UAE residence visa for your daughter in the UAE. Your husband needs to submit the copy of his passport along with copy of his UAE residence visa page, copy of your marriage certificate which is duly legalised and attested by Ministry of Foreign Affairs and International Co-operation in the UAE, copy of registered tenancy contract, copy of his employment contract, the copy of the passport and coloured photograph with white background of your daughter to the General Directorate of Residency and Foreigners Affairs (the 'GDRFA') to apply for residence visa of your daughter. Due to Covid-19, currently the UAE is not issuing any type of visa to people who are outside the UAE.

There are no options of availing visa on arrival for children who are below 18 years of age who intend to travel with their parent/s to the UAE. Further, as Pakistan is not listed as one of the countries where its

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nationals can obtain a visit visa on arrival to UAE, you may have to either apply for UAE visit visa for your daughter or your husband has to apply for UAE residence visa for her. For further clarifications, you may approach the GDRFA and seek their advice.

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