

Cancelling a deal? You may lose advance paid



LEGAL VIEW
ASHISH MEHTA

Q: I was expecting to sell my car to a buyer, who said she wanted to buy it on behalf of her company. We mutually agreed on the price of Dh126,500 and she gave me Dh2,000 as a token money/guarantee for the deal. She said she would pay up the rest within three days and I signed a paper stating that I had received Dh2,000. I rejected many potential buyers after this. However, seven days later she called and informed me that she wouldn't be able to purchase the car as her company needed about a month to arrange the funds. She requested that I give her Dh2,000 back. Legally speaking, am I bound to return that amount to her? Can I keep it as a penalty for cancelling the deal as I had lost potential customers during this period? I am willing to wait for a month to seal the deal.

A: Pursuant to your queries, we assume the deal related to the sale of the car was made verbally. It

may be noted that you are not obliged to return the advance paid as token advance (earnest money) as the buyer is in breach of her contractual obligation to purchase your car. This is in accordance with Article 148 of the Federal Law No. 5 of 1985 on the issuance of Civil Transactions Law, which states:

"1. Payment of advance money shall be considered evidence that the contract has become finally binding, and no one can withdraw from it unless the agreement or custom requires otherwise.

2. If two contracting parties agree that the earnest money be considered a penalty against the party who withdraws from the contract, either one of them shall be entitled to withdraw, and whoever pays the earnest money shall lose if he withdraws, and whoever receives it, shall make



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You are not obliged to return the advance payment paid if the buyer breaches contractual obligation.

restitution thereof plus an equivalent amount if he withdraws."

As you are willing to wait for a month to conclude the deal, you may withhold the advance money and wait for the buyer's final willingness. In the event the buyer does not turn up and complete the terms of the verbal agreement related to the sale of the car then she cannot seek the refund from your end. You may explain to her regarding the aforementioned provision of law and further may inform her due to the verbal agreement between you and her to purchase the car within a certain period of time you have also lost potential customers who were willing to purchase the said car.

Tenant must pay 30% when vacating before lease term

Q: I have just been fired from my Dubai-based company as part of a cost-cutting strategy. I wish to go back home instead of staying in the UAE and looking for another

job. I reside with my family in an apartment in Sharjah and my rental contract is valid until March 2019. I told my real estate agency that I had been fired and needed to leave the country at the earliest. However, he has informed me that since I would be violating the tenancy agreement, I would need to pay two months' rent as penalty. Is this legal? It's not as if I am leaving the flat for a better one, I have been fired and need to save up as much as possible before I leave. Please advice.

A: Pursuant to your queries, it may be noted that as per Article 22 of the Executive Regulation of Law No (2) of 2007 on Regulation of Landlord-Tenant Relationship in Sharjah, the tenants cannot terminate the lease agreement except for force majeure (beyond your control) event and are legally obligated to continue the lease until the expiry of the lease term. In the event of an early termination due to force majeure, the tenants are obligated to compensate the landlord for an amount

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In case of a force majeure event, a tenant is obligated to compensate the landlord for an amount not less than 30 per cent of rental of the remaining period of the lease contract, unless otherwise agreed by the parties.

not less than 30 per cent of rental of the remaining period of the lease contract, unless otherwise agreed by the parties. Further, all disputes are to be addressed to the Sharjah Rental Dispute Committee (RDC) and the decision given by the RDC shall be final and binding on both the parties in cases where the judgement value is Dh100,000 except for claims under Article 24 of the said law. Applicable sub-provision under the Article 22 (2) of the aforesaid law is stated as below: "Without prejudice to Article 12 of the Law Number (2) of 2007: (2) the committee, may if it is content with such force majeure events,

terminate the contract by obligating the tenant to pay compensation to the landlord in an amount not less than 30 per cent of rental of the remaining period of the lease contract, unless otherwise agreed by parties."

Based on the aforementioned provision of law, termination of your employment may be considered as a force majeure event as this event is beyond your control. Therefore you may have to only compensate your landlord with 30 per cent of the rent for the remaining period of rental agreement. It is recommended that you approach the Rental Dispute Committee based in Sharjah Municipality and seek further clarifications.

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