

No ban for resigning if boss fails to fulfil contract terms



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LEGAL VIEW

Q I recently joined a company based in Abu Dhabi as an accountant. As stipulated in the unlimited employment contract, I was to work in Abu Dhabi. However, on my first day at work, my boss told me that I would be based in Sharjah. I have tried to convince him that I reside in Abu Dhabi and would want to work here. However, he refuses to budge. Based on this, can I leave my work without serving a notice period as the employer has not followed the terms in the contract? Will there be an employment ban if I leave during my probation period? If yes, do I have a valid ground to contest it given the above scenario?

A Pursuant to your queries, we assume that you are employed by a mainland company based in the emirate of Abu Dhabi. Therefore the provisions of Federal Law No. 8 of 1980 regulating employment relations in the UAE (Employment Law); Ministerial Decree No. 766 of 2015 on rules and conditions for granting a permit to an employee for employment by a new employer (Ministerial Decree No. 766 of 2015); and Ministerial Order No. 13 of 1991 on the organisation of the transfer of sponsorships of non-national employees and the rules governing the same (Ministerial Order No. 13 of 1991) shall be applicable.

We further assume that your employ-

ment contract is registered with the Ministry of Human Resources and Emiratization (MOHRE) and it mentions place of work as Abu Dhabi. This is in accordance with Article 36 of the Employment Law, which states: "The employment contract shall in particular specify the date of its conclusion, the date on which work begins, nature and place of work, duration of the contract in the case of contract with limited period and the amount of the remuneration." Therefore, based on the

Know the law



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forementioned provisions of law, if your employment contract mentions that your place of work is Abu Dhabi, then your employer may not call upon you to work in any other emirate. However, if the employment contract registered with the MOHRE mentions that you may be relocated to Sharjah or anywhere in the UAE, then you may have to continue to work in Sharjah or any place as mentioned in your employment contract.

If your employer calls on you to work in Sharjah instead of Abu Dhabi, then it may be breach of the terms of the employment contract. Based on this, you may resign

from your employment without serving the notice to your employer. This is in accordance with Article 121 (a) of the Employment Law, which states: "The employee may leave the service without notice if the employer does not fulfil his obligations towards the employee as provided for in the contract or in this law."

Further, there may be no employment ban on you if you resign on the grounds of your employer not fulfilling the terms of the employment contract. This is in accordance with Article 1 (III) (1) of the Ministerial Decree No. 766 of 2015, which states: "The instances described in I- and II- of this article notwithstanding, an employee may be granted a new work permit if it is determined that the employer has failed to meet his legal or contractual obligations, including but not limited to when the employer fails to pay the worker's wages for more than 60 days."

If there is an imposition of an employment ban on you for resigning from your employment during the probation period without notice, you may be in a position to apply for the lifting of such employment ban, if you are a qualified accountant. This is in accordance with Article 2 of the Ministerial Order No.13 of 1991.

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