

Allowances must be given with basic pay every month



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LEGAL VIEW

Q I am currently employed in an electrical and contracting company under an unlimited contract. My remuneration is split into two parts: basic salary and cash allowance. I have been receiving my basic salary on time. However, my employer has not been paying my cash allowance regularly — which has now been due for four months. How do I recover the cash allowance component of my salary?

A: We assume that you are employed by a company based in the mainland of UAE and, therefore, the provisions of the Employment Law and Ministerial Decree No. 739 of 2016 concerning the protection of wages are applicable.

Article 1 of the Employment Law defines remuneration as: "Any consideration, in cash or in kind, given to an employee, in return for his service under an employment contract, whether on yearly, monthly, weekly, daily, hourly, piecemeal, output or commission basis. The remuneration shall include the cost-of-living allowance. It shall also include any grant given to an employee as a reward for his honesty or efficiency, provided such amounts are stipulated in the employment contract or in the firm's internal regulations or are being so customarily granted that the employees regard them as part of their remuneration and not as donations."

As per the provisions of the Employment Law, it may be noted that an employee shall be remunerated at least once a month. This is in accordance

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with Article 56 of the Employment Law which states: "Employees engaged on yearly or monthly salary shall be paid remuneration at least once a month; all other workers shall be paid at least once every two weeks."

Therefore, if your employer only remunerates you partially, it may be considered non-payment of salary, which is a violation of the Employment Law.

If an employer does not pay an employee within one month of the salary's due date, it shall be considered a refusal to remunerate the staff. This is in accordance with Article 1(b) of Ministerial Decree No. 739 of 2016, which states: "The employer shall be deemed late in remunerating his employee unless he pays the salary within the first 10 days as of maturity date, and shall be deemed as refusing to pay the salary unless he pays it within one month as of the maturity date, unless a less term is set/provided in the contract."

You may file a complaint against your employer with the Ministry of Human Resources and Emiratisation (MoHRE) concerning the non-payment of salary for the last four months.

Further, in filing the complaint, you may inform MoHRE that you intend to continue with the current employment and your demands are only related to the settlement of outstanding salaries.

You may be banned from employment for failing to serve notice period

Q I am employed under an unlimited contract, and I have completed two months of the probation period. My employment contract states that either I or my employer can terminate the contract during probation without notice period. Recently, I received a job offer from a company in another country and I am eager to take it up. I intend to resign without serving a notice period, as mentioned in my employment contract. If I tender resignation during the probation period, would it attract an employment ban in the UAE?

A: Generally, free zone authorities in the UAE may have their own employment rules and regulations. However, if a free zone authority does not have its own set of regulations, then the provisions of the Employment Law and the subsequent ministerial decrees are applicable. As you have not mentioned the free zone where you are employed, your query will be addressed in accordance to the provisions of the Employment Law and the subsequent decrees.

As per the provisions of Ministerial Decree (765) of 2015 on Rules and Conditions for the Termination of Employment Relations, an unlimited employment contract is terminated when either the employer or an employee terminates the contract any time, provided that the terminating party notifies the other party and continues to abide by the contractual obligations for the duration of the notice period.

Based on the provisions of the law, an employment contract may be terminated by serving the

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Termination of employment within six months of joining the job may attract an employment ban for a specified period of time

notice period as mentioned in the employment contract. Since your employment contract specifically states that during probation period, both employer and employee may terminate the agreement without notice period, there may be no requirement of serving a notice period.

However, the said provision of your employment contract may be valid only if it is registered with the free zone authority concerned.

If your employment contract is not registered with the free zone authority, you may have to serve the notice period (minimum of 30 days) in accordance with the provisions of Ministerial Decree No. 765 of 2015.

Failing to comply with the notice period and terminating your employment within six months of joining the job may attract an employment ban on you for a specified period of time, as decided by the free zone concerned or the Ministry of Human Resources and Emiratisation. Even if the free zone concerned bans you from employment, you may look for job in other zones or mainland companies.

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