

# You don't have to serve notice period if your contract ends



## LEGAL VIEW Ashish Mehta

*I have been working in the UAE as an accountant for the last two years. This is my first contract with the company and in the country.*

*My labour contract and card expired in February, and my visa will get over next week. In January, I went for my annual leave for 25 days. Before leaving, I asked my employer regarding the renewal, and he said he would discuss it with me after I returned.*

*Once I returned, my employer gave me a renewal document to sign, but it was not acceptable to me as it had no confirmation about a salary hike. I followed up repeatedly about this but never got a satisfactory reply. Soon after, I found another job opportunity.*

*My employer offered me a new salary package that I was not satisfied with and I told him I did not want to renew my contract.*

*Now, he is asking me to serve my entire notice period despite my contract getting over. He said he would not cancel my visa if I do not serve my notice period.*

*Do I have to serve the notice period despite the contract being over? Can I legally compel him to cancel my visa? Can I join a new company despite him not cancelling my visa?*

We assume your employment contract is limited in duration. The employment contract can only be renewed if both the employer and employee agree to renew mutually if it is limited period of contract.

This is in accordance with Article 38 of Federal Law No. 8 of 1980 regulating employment relations in the UAE (the "Employment Law"). It states: "A contract of employment may

be for an unlimited or for a limited period.

If it is for a limited period, this shall not exceed four years and the contract may be renewed by mutual agreement between the parties for a similar or a shorter period on one or more occasions.

"Where a contract is renewed, the further period or period shall be deemed to be an extension of the original period and shall be added thereto when calculating the worker's total period of service."

Further, Article 1(i)(1) of the Minister of Labour's decree no. 765 of 2015 on rules and conditions for the termination of employment relations states: "An employment relation between an employer and employee may be terminated in the case of fixed term contracts (approved by the ministry for a term of no more than two years), an employment relation is terminated if the contract expires and the contract is not renewed."

Based on the aforementioned provisions of law you are not required to serve the notice period as your work permit has already expired and your residence visa will be expiring in April 2017.



### Know the law

"If contract is for a limited period, this shall not exceed four years and the contract may be renewed by mutual agreement between the parties for a similar or a shorter period on one or more occasions."

It will be prudent to notify your employer your decision not to renew the employment contract. In the event your employer does not cancel your work permit and residence visa, you may approach the Ministry of Human Resources and Emiratisation (the "Ministry") and file a complaint against your employer. Further, you should cancel your employment visa before joining a new employer.

### Call the police if employer holds back your passport

*I was employed in Dubai with a company that kept my passport and qualification certificates.*

*I submitted my resignation during the probation period, but they refused to pay my salary, saying it would be used to cover visa expenses.*

*I was forced to sign a form stating I received my dues, without which they wouldn't release my passport.*

*I decided to file a complaint with the Ministry of Labour, and since they gave me a Sharjah visa I've been driving daily to Sharjah in pursuit of justice.*

*The case was recently moved to the Sharjah Labour Court. I have been on the case for the past three months and am beginning to lose hope.*

*Can I transfer my case to Dubai? Also, will the fact that I signed the letter stating I've received my dues work against me?*

Pursuant to your queries, your employer cannot hold your passport and your qualification certificates without your consent.

Your employer is not authorised to hold your salary and cannot ask you to bear the visa expenses.

You should not have signed the form stating that you have received all your dues and you should have informed the police immediately that your employer is threatening and forcing you to



### Know the law

"Your employer cannot hold your passport and your qualification certificates without your consent. Your employer is not authorised to hold your salary and cannot ask you to bear the visa expenses."

sign the form and holding back your passport.

Now the onus is on you to prove that you signed the form under duress and have actually not been paid.

Since your work permit was issued by the Sharjah Ministry of Human Resources and Emiratisation, the jurisdiction lies with Sharjah court to adjudicate on the matter.

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