

# Tenant at fire-hit Sharjah tower may get rent refund



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LEGAL VIEW

**Q:** I was renting a one-bedroom flat at a Sharjah tower that was damaged in a fire earlier this year. I had a yearly contract, so I paid my rent only once. Prior to the fire incident, I spent just five months at the building. I approached the real estate company that leased the apartment to me and requested a cancellation of the contract, so I could get a refund for the remaining seven months of rent. However, the flat owner had simply refused to return my money, which amounted to Dh14,500, even after the cancellation had been completed. To which government agency can I report this matter so legal action can be taken against the real estate company and the flat owner?

**A:** As your rented apartment is situated in Sharjah, the provisions of the Sharjah Rental Law, as well as those of the Civil Transactions Law, are applicable.

It is the responsibility of the flat owner to maintain the unit, according to the Article 9 of the Sharjah Rental Law. Then, based on Article 8 of the same law, a tenant may terminate the contract if the rented premises are not maintained in a suitable condition. It states: "If the leased premises... are delivered to the tenant in an unsuitable condition or with great shortages, the tenant may request the committee to terminate the contract or request a rent decrease."

Further, the owner shall be responsible for any defects in the apartment which were not caused by reasonable wear and tear. This is in accordance with Article 772 of the Civil Transactions Law.

Consequently, if the owner of the apartment does not address these defects in the unit, the tenant may cancel the contract or request a reduction in rent, according to Article 773 of the Civil Transactions Law.

Based on these provisions, as a tenant, you are entitled to claim the advance rent amount

you paid for the period during which you have not used the apartment.

As the owner is refusing to refund the balance after the cancellation of the contract, you may approach the Sharjah Rental Dispute Committee, which is located at the Sharjah Municipality, and file a complaint against the real estate company and the owner.

## Employer should not dismiss a staff member while he is on vacation

**Q:** I requested an experience letter from my former company, but they refused to give it to me. They said I was dismissed from the job, so they couldn't provide one. I have never been issued any warning letter during my employment. I was on vacation and I had a serious medical issue. So, I mailed the company in advance, saying that I would be returning to work one week late. However, as soon as I came back to Dubai, they filed a case against me in the labour department. What should I do?

**A:** We assume that you were employed in a mainland company in Dubai; therefore, the provisions of the UAE Employment Law are applicable. We further assume that the complaint filed by your previous employer is pending before the Ministry of Human Resources and Emiratization (MoHRE). However, you have not mentioned the exact reason why the company dismissed you from your employment.

It is the responsibility of an employer to provide an experience certificate to its employee at the end of the service period, according to Article 125 of the country's Employment Law.

Further, an employer may not be able to terminate its employee while he/she is on leave, based on Article 90 of the law. It states: "Without prejudice to cases where the employer has the right to dismiss the employee without notice or gratuity, the employer may not dismiss an employee or serve him with a notice of dismissal during his leave."

An employer may also not be able to terminate its employee while he is sick and before he avails of all his sick leaves. This is in accordance with Article 124 of the Employment Law: "The employer may not terminate the service of an employee for his health deficiency before he avails himself of

## Know the law



A company may not terminate its employee on the grounds of health issues, until he has exhausted all the sick leaves he is entitled to.

the leaves lawfully due to him. Any agreement to the contrary is deemed null and void even if it is made before this law comes into effect."

Therefore, your previous employer should not have terminated you while you are on leave, as you have notified them about your health issues. The company may also not terminate you on the grounds of your health condition until you have exhausted all the sick leaves you are entitled to.

In this case, the company's refusal to issue an experience certificate may not be correct. As the firm had already registered a complaint with MoHRE, you may approach the ministry and file a counter complaint, if you believe you were terminated without a valid reason.

This is in accordance with Article 122 of the Employment Law: "Termination of an employee's service is considered arbitrary if the cause has nothing to do with the work. In particular, termination is considered arbitrary if the employee's service has been terminated on grounds of a reasonable complaint lodged by him to the competent authorities, or on grounds of a justifiable action brought by him against the employer."

You may also file a claim for compensation on grounds of arbitrary termination as mentioned in Article 123 of the Employment Law. Further, you may mention in your complaint that your previous employer refuses to provide you with an experience letter.

It is recommended that you present all the documentary evidence related to your health issues and a copy of the e-mail you sent to your previous employer, confirming that you had notified them that you would be coming back to work later than expected because of medical problems.

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## Know the law



A resident may cancel a tenancy contract or request a reduction in rent, if the flat owner fails to address 'defects' in the apartment.