

What to do if employer insists on keeping your passport



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LEGAL VIEW

Q: I am an Indian national working in a Dubai-based company (not a free zone). You have often mentioned in your columns that it is illegal for firms to keep their employees' passports. I have showed clippings of these articles to our HR department, but they insist on keeping my passport. How do I address this without jeopardising my future at the company?

A: The practice of employers withholding the passports of their foreign employees is prohibited under Circular No. 267 of 2002 issued by the Ministry of Interior (MoI) — unless it is carried out by judicial authorities in accordance with relevant provisions of the law.

However, if the employee consents to handing over the passport, then such possession of the employee's passport by the employer shall not be deemed unlawful, provided the employee's consent is obtained in writing and the employer agrees to return the passport at the employee's request.

In addition, considering that you are employed by a company based in the mainland of Dubai, the provisions of Federal Law No. (8) of 1980 regulating Employment Relations in

the UAE (Employment Law) shall be applicable.

Therefore, in case your employer terminates your employment on the grounds of your refusal to consent to the retention of your passport or your demand to return the passport, such a termination of employment may be deemed an arbitrary termination.

This is in accordance with Article 122 of the Employment Law, which states: "A worker's service shall be deemed to be arbitrarily terminated by his employer if the reason for termination is irrelevant to the work. More particularly, a termination shall be regarded as arbitrary if it is prompted by a formal complaint filed by the worker with the competent authorities or a legal action instituted against the employer that proved to be valid."

In pursuance of the aforementioned circular and the provision of the Employment Law, it may be noted that you may demand that your passport be returned.

If your employer refuses to return it or discourages you from demanding

Know the law



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the return of your passport by indicating a subsequent termination of your employment, you may consider approaching the Ministry of Human Resources and Emiratisation. You may also file a complaint against your employer at a police station.

Real estate firms may charge fees for tenancy contract renewal

Q: I stay in a one-bedroom apartment in Dubai, and my annual rent is Dh50,000. However, my real estate charges Dh2,000 as 'admin charges' every year for contract renewal. This clause is mentioned in the contract between me and the real estate company; however, there is no such thing in the Ejari. I recall reading your advice that annual 'commission' to real estate firms is illegal. Are 'admin charges' illegal, too? It's just a fancy name for commission, in my opinion. Which authority should I approach to raise this issue? And how do I go about it?

A: It may be noted that the real estate company which manages your tenancy should not collect a commission for the renewal of your tenancy contract every year.

However, the real estate company may charge a reasonable amount as administrative charges for facilitating the renewal of a tenancy contract,

provided an obligation to make such payments is imposed on a tenant by way of a stipulation in a tenancy contract or a separate contract between a tenant and a real estate company.

In your case, considering the existence of a separate contract between you and the real estate company wherein you have agreed to pay annual administrative charges of Dh2,000 for the renewal, you may be liable to incur such administrative charges.

However, if you do not want to continue paying this administrative charge, you may consider terminating this agreement with the real estate company for subsequent renewal.

Know the law



If a real estate company is charging admin fees for renewal, it must be included in a contract between the tenant and the firm.

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