

# Inoperational firm has to pay salaries



## LEGAL VIEW Ashish Mehta

*I left my previous company and found a new job at a restaurant, with which I signed an employment contract on August 3 this year. My residence visa has now been stamped and I have also received my resident ID. However, the employer is yet to open the restaurant, even though he promised it would commence from August 15. It has now been four months and my salary has not been paid. Shouldn't the employer pay me the salary?*

Pursuant to your query, your employment commenced from the date you signed your employment contract and the same has been approved by Ministry of Human Resources & Emiratisation. Based on this, you are entitled to the sal-

aries thereon and it is the responsibility of the employer to pay you on time. Your employer cannot evade paying salaries by citing the reason of non-commencement of the operations of the restaurant. Further, Article 121(a) of the Federal Law No. 8 of 1980 regulating Employment Relations in the UAE (the 'Employment Law'), states, "An employee may leave his work without notice if the employer fail to comply with his obligations towards him, as provided for in the contract or in this law." Therefore, based on the aforementioned provision of law, you can leave your employment without serving notice and file a complaint with the ministry immediately as your employer has breached the employment contract and further claim all outstanding amounts due from the employer.

### Public holidays on weekend not part of annual leave

*I work with a private firm and have weekly off every Friday and Saturday. I would like to know if public holidays falling on weekends will be added to my annual leave or not?*

Any public holidays if falling on a weekend are not to be added to your annual leave. Further, any holidays, including sickness, dur-

### Know the law

Public holidays on weekends are not added to annual leave but sick leave during annual leave shall be part of it.



ing annual leave shall be considered as part of the annual leave. This is in accordance with Article 77 of the Federal Law No. 8 of 1980 Regulating Employment relations in the UAE (the 'Employment Law'), which states: "Holidays for which provisions have been made by law or agreement or any other days of absence from work on account of sickness shall be reckoned as part of the annual leave if such holidays fall within the annual leave."

### Bank can initiate action if loan instalment is not paid

*I have been using a credit card for the last 10 years and my repayments were always made on time. But recently, due to a crisis within my company, my salary was reduced and I was not able to make the credit card payments as I also have another bank loan. I have defaulted on my credit card payments for the last four months and the bank/finance company has served me with a legal notice. What is the legal process to be followed here?*

Usually, credit card services offered by bank or a finance company in the UAE fall within the purview of a personal loan. The Central Bank of the UAE has laid guidelines for banks and finance companies in the UAE regarding the terms and conditions related to financing of personal loan and credit card in the UAE. Normally banks and finance companies will collect a cheque from the person who applies for a credit card, to secure their interest.

The bank or the finance company who issue the credit card to you have the right to encash the cheque provided by you to recover their outstanding dues from you. In the event this cheque is dishonoured by your bank upon presentation, its beneficiary may initiate a criminal complaint against you, for dishonour of a cheque due to insufficient funds. Further, you will be declared wanted and the public prosecu-

tor may either imprison you or impose a fine.

This is in accordance with Section 401 of Federal Law No. 3 of 1980 related on issuance of Penal Code which states: "Detention or a fine shall be imposed upon anyone who, in bad faith, gives a draft (cheque) without a sufficient and drawable balance or who, after giving a cheque, withdraws all or part of the balance, making the balance insufficient for settlement of the cheque, or if he orders a drawee not to cash a cheque or makes or signs the cheque in a manner that prevents it from being cashed. The same penalty shall apply to anyone who endorses a cheque in favour of another or gives him a bearer draft, knowing that there is no sufficient balance to honour the cheque or that it is not drawable."

Alternatively, the bank and finance company may also initiate civil proceedings against you before the courts of competent jurisdiction for recovery of the outstanding amount plus costs.

### Know the law

If an employer doesn't pay an employee's salary citing non-commencement of company's operations as the reason, the employee can quit without serving notice and file a complaint with the Ministry of Human Resources & Emiratisation to claim outstanding dues.



### Know the law

Detention or a fine shall be imposed upon anyone who, in bad faith, gives a draft (cheque) without a sufficient and drawable balance or who make the balance insufficient for settlement of the cheque.



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