

# Ensure you collect your cheques after paying rent by cash



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LEGAL VIEW

**Q:** In September 2019, I moved out of my rented apartment in Qusais at the end of my contract. I got a no-objection certificate (NOC) from the landlord to move out. My landlord, however, has been using old cheques that bounced to file a police case against me. As I had to travel in December last year, I cleared the cheque amount and thought that they would leave me alone. Unfortunately, in August this year I lost my job. The company has not been able to cancel my visa as a bounced cheque case was registered against me in Sharjah.

I went to the Sharjah police station, where I was told that an amount of Dh2,700 had to be paid. I was shocked as the cheque that they have been using was paid in full. The police informed me that I have to sort out the issue with the landlord. The landlord has kept all my bounced cheques with him even after I cleared them.

I had cleared the final Dewa bill a month after moving out. I sent the proof of payment to the owner, but did not receive an acknowledgment.

I have tried to contact them by email to provide an NOC so that I can get my visa cancelled, but they have refused and are requesting that I pay the amount. I have tried to even contact the manager of the company, but I have received no feedback at all. How can the landlord file a police case using a cheque that I have paid in full? Is a landlord legally allowed to charge me rent after giving clearance to move out?

**A:** Pursuant to your queries, we assume that you had issued rent cheques to your previous landlord while you entered into a tenancy contract. Later, instead of payment of rent by cheques, you had paid it by cash, but did not collect the cheques back. Further, as your previous landlord has filed a criminal complaint against you in the police station for the dishonour of cheques, the provisions of Federal Law No. 3 of 1987 on Issuance of the Penal Code amended by Federal Law No. 34 of 2005 (the 'Penal Law') are applicable.

At the time of making cash payment to your previous landlord against the cheques, you should have collected back the original cheques. If you have the receipts issued by your previous landlord for the cash payments made against the cheques, then you could file a counter complaint with the Sharjah Public Prosecution for misusing your cheques and presenting it to the bank for collection even after payment of the amount.

Further, in the UAE, dishonour of a cheque is a criminal offence. This is in accordance with Article 401 of the Penal Law, which states: "A punishment of confinement shall be inflicted on any person who, in bad faith draws a cheque without no existing or drawable provision, or who, after issuing the cheque, withdraws all or part of the fund to that the balance

becomes insufficient to settle the amount of the cheque, who orders the drawee not to pay cheque, or deliberately makes or signs the cheque in such a manner as to prevent it from being paid.

"Any person who endorses or delivers to another a cheque payable to bearer, whilst being aware that there are no existing funds covering its value or that it cannot be drawn shall be liable to the same punishment.

"The penal action shall lapse if payment is made or waived after the crime has occurred and before it has received a final ruling. If this occurs after the ruling has become final, its execution shall be stayed."

Based on the aforementioned provision of law, even though the issuer of the cheque is subject to penalties or imprisonment or both if the cheques are dishonoured, the latter part of the said provision of the law states that punishment may be avoided if the amount of the cheque is paid in full to the payee or if the payee of the cheque waives his right to collect the proceedings.

On the other hand, while you had collected the NOC as clearance from your previous landlord to

## Know the law



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vacate the rented apartment, it is your responsibility to collect the remaining security rent deposit cheque/s.

Further, when you approach the Sharjah Public Prosecution, you should present all documents including your previous tenancy contract, cash receipts issued by the previous landlord for payment of rents against cheques, the NOC issued by your previous landlord to vacate the apartment and the copies of the dishonoured cheques. The public prosecutor upon verifying all documents submitted by you may close the case against you and open a criminal case against your previous landlord for misusing your cheques and filing a false complaint against you.

## Housing, other allowances must for staff fired due to Covid situation

**Q:** I am a Spanish citizen and have been living in the UAE for 10 years. I lost my job because of the Covid-19 situation. I was informed about this while I was on maternity leave. Before I was fired, I had told my company that I was willing to go on an unpaid leave or work part-time because of the market situation. My boss and I signed an agreement to grant me housing allowance till I found another job. Two weeks ago, the company wrote to me saying they

## Know the law



Employees fired due to Covid-19 precautionary measures are entitled to all their allowances except wages until they leave the UAE or are authorised to work for another establishment.

would not be able to pay the housing allowance anymore. I was told to agree with this or avail of a flight ticket back home. We had earlier agreed to retain my visa till December, but they are now saying they would cancel it if I don't agree to their terms. I have two kids and my whole family is here. I want to find a job and continue my life here in the UAE. Is my company obligated to pay me the housing allowance until I find a job?

**A:** Pursuant to your queries, we assume that you were employed by a mainland company in the UAE. We assume you and your employer agreed to mutually terminate your employment contract under the provisions of Ministerial Resolution No. 279 of 2020 and your employer is paying your housing allowance until you find a new employment in the UAE. Article 3 of Ministerial Resolution No. 279 of 2020 states: "Establishments affected by the mentioned (Covid-19) precautionary measures, which have an excess of non-national employees authorised to work for them, shall register their data in the Virtual Labour Market System to enable their rotation according to the needs of other establishments, provided that their obligations towards these employees remain the same in terms of housing and fulfilling all their entitlements (except wages) until they leave the State or to be authorised to work for another establishment."

Based on the aforementioned provision of law, the employer is obligated to pay you your housing allowance and other allowances except your basic salary until you find a new employment in the UAE or until you leave the country. However, the aforementioned provision of law also mentions the employer may only pay the housing allowance until you leave the UAE. Since you and your employer have signed an agreement for payment of your housing allowance by the employer till a specific period, your employer may be under an obligation to pay you your housing allowance. In the event your employer fails to fulfil this obligation, you may approach the Ministry of Human Resources & Emiratization and file a complaint against your employer.

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