

Sacked employee eligible for unused leave pay



LEGAL VIEW Ashish Mehta

I was employed by a company based in RAK FTZ on an unlimited employment contract. The employer terminated my services by issuing a 30-day notice, which I served in full until March 31. My total service period at the company was just over three and a half years. My total leave entitlement is 105 days. Of this, I availed of only 61 days while 44 days remain. But my employer is not willing to pay for the balance leave. Only my gratuity is being paid. Under what provisions of the UAE Labour Law can the employer hold the pay for 44 days balance leave calculated at the last drawn salary (basic + housing allowance)?

Pursuant to your question, it may be noted that RAK FTZ applies Federal

Law No. 8 of 1980 (the 'Labour Law') to regulate employer-employee relations in the RAK FTZ. This is in accordance with Article 6.28 of Rules and Regulations of RAK Free Trade Zone, which states: "Every worker shall, within each year of service, be granted a period of annual leave of not less than 30 days a year provided the worker's service is more than six months."

The aforementioned clause is in accordance with Article 75 of the Labour Law which states: "Every worker shall, within each year of service, be granted a period of annual leave of not less than:

(a) two a month, where the worker's period of service is more than six month but less than one year;

(b) 30 days a year, where the worker's period of service is more than one year. Where a worker's service is terminated, he shall be entitled to annual leave in respect of fractions of the last year."

Further, it may be noted that you shall be eligible for leave salary not

Know the Law

Every worker shall be entitled to his basic wage and the housing allowance if applicable in respect of his days of annual leave where the circumstances of the work make it necessary for a worker to work during all or part of his annual leave and the days of leave on which he works are not carried forward to the following year, the employer shall pay him his remuneration, plus a leave allowance in respect of the days worked at a rate equal to his basic wage.

previously availed of by you during your term of employment with your employer, provided you have documentary evidence that you have not availed such annual leaves. Article 78 of the Labour Law states, "Every worker shall be entitled to his basic wage and the

housing allowance if applicable in respect of his days of annual leave where the circumstances of the work make it necessary for a worker to work during all or part of his annual leave and the days of leave on which he works are not carried forward to the following year, the employer shall pay him his remuneration, plus a leave allowance in respect of the days worked at a rate equal to his basic wage.

It shall be unlawful in any circumstances to employ a worker during his annual leave more than once in two successive years."

Ashish Mehta is the founder and Managing Partner of Ashish Mehta & Associates. He is qualified to practise law in Dubai, the United Kingdom, Singapore and India. Full details of his firm on: www.amalawyers.com. Readers may e-mail their questions to: news@khaleejtimes.com or send them to Legal View, Khaleej Times, PO Box 11243, Dubai.