

Eid holidays cannot be treated as unpaid leave



LEGAL VIEW
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Q: I am employed with a private company in the Hamriyah Freezone, Sharjah. Recently, my wife, who is based in Hong Kong, planned for our children and me to visit her during the Eid break. However, she booked the vacation from August 20 (evening flight scheduled after work hours) to August 24, before the official announcement was made about the Eid holidays. After realising that the private sector holidays were from Monday, August 20, to Wednesday, August 22, she rebooked our departure flight for August 19 (evening flight scheduled after work hours). She asked me to request my company for a one-day unpaid leave on Thursday, August 23, so we could extend our vacation. When I was submitting my leave application, the human resources department informed

me that as per an internal circular, if we applied for a leave on August 19 (Sunday) or August 23 (Thursday) without a medical reason, this additional day and the three-day official Eid break would be treated as an unpaid leave. Is this legal? What are the legal options open to me if they deduct my salary?

A: Pursuant to your queries, it may be noted that an employee is entitled to three days of official holidays with full salary for Eid Al Adha and an internal policy of your employer is contrary to Article 74 of the Federal No. (8) of 1980 regulating Employment relations in the UAE (the 'Employment Law'). Further, Article 89 of the Employment Law states: "Subject to the provisions of this law, any employee who fails to resume work immediately after expiry of his leave

shall automatically forfeit his remunerations for the period of his absence, with effect from the day following that on which the leave expires."

In light of the above provisions, your employer should not combine the official Eid holidays with the one day unpaid leave as such policy is contrary to the Employment Law.

This is in accordance with Article 7 of the Employment Law, which states, "Any stipulations contrary to the provisions of this law, even if it was made prior to its commencement, shall be null and void unless they are more advantageous to the employee."

In the event the employer deducts your salary for four days, which includes public holidays, you may approach your human resources department and draw their attention to Article 74, Article 89 and Article 7 of the Employment Law. You

may further inform them that internal HR policies cannot be contrary to the Employment Law if it is not advantageous to the employee. If your employer disagrees, you may file a complaint with the Ministry of Human Resources & Emiritisation.

Residence visa gets cancelled automatically after 6 months

Q: I am a resident of Dubai. I sent my son back to India around four months ago due to a host of reasons. I had sponsored his residence visa while he was here. Will his residence visa get cancelled after six months on its own or do I have to get it cancelled from one of the Amer centres? What is the legal procedure to cancel the visa? And if it does get cancelled on its

own, do I need to do take care of any other formalities?

A: Upon completion of six months, the residence visa of your son should be cancelled automatically in the record of the General Directorate of Residency and Foreigners Affairs (the 'DNRD'). However, after expiry of six months, you may, for your satisfaction, check with DNRD if the visa is indeed cancelled from their record.

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