

Termination only if staff breaches conditions



LEGAL VIEW
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I have been working with an LLC company since 2010. On June 3, one of the partners of our company told me to hand over my work to my colleague and stop coming to the office.

However, as handing over was not complete, I worked on June 4 and stopped working from June 5. But, please advise me, can my employer terminate me without notice?

I am on my husband's visa and the company gave me a labour card. I have not been paid for the last four months due to financial problems in the company. Every day I am following up for a formal letter of termination, EOS settlement

and pending salaries, but I have not got a concrete reply. What are my rights? What shall I do to get my dues?

Pursuant to your questions, your employer can only terminate you without notice if you have breached the conditions as mentioned in Article 120 of the Federal Law No. 8 of 1980 (the "Labour Law"). We assume that your employer terminated you without notice and not in accordance in Article 120 of the Labour Law. Therefore you are eligible for compensation for arbitrary termination of your employment pursuant to Article 123(a) of the Labour Law, which states: "Where a worker is arbitrarily dismissed, the competent court may

order the employer to pay him compensation. The court shall assess such compensation with due regard to the nature of the work, the amount of prejudice he has sustained and his period of service, and after investigating the circumstances of the work. The amount of the compensation shall in no case exceed the worker's remuneration for three months calculated on the basis of the last remuneration he was entitled to."

Since your employer has not paid you salary for the last four months you can terminate the employment contract in accordance with Article 121 of the Labour Law, which reads as "A worker may leave his work without notice in either of the following case:

A) If the employer fails to comply with his obligations towards him, as provided for in the contract or in this Law.'

Know the law

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B) If he is assaulted by the employer or the employer's legal representative."

You are entitled to unpaid salary, gratuity from the day of joining the employment until termination on June 5, salary for annual leave not availed, compensation for arbitrary termination and cost of air ticket to your home country. Normally, an

employee should receive all the end of service benefits and final settlement amount from the employer at the time the employer seeks the signature of the employee on the Ministry of Human Resources and Emiratization (the "Ministry") document confirming receipt of all end of service benefits and final settlement amount by the employer.

You may file a complaint at the ministry against your employer who has terminated your employment without notice and delaying in payment of end of service benefits and final settlement amount due to you. Pursuant to this, the ministry will call upon your employer to pay your end of service benefits and final settlement amount.

In the event your employer fails to pay your end of service benefits and final settlement amount, you may seek a letter from the ministry which will enable you to file a case

No work while on visit visa

The alien who obtains a visit visa may not work anywhere in the country with or without pay or for his own.



against your employer before the court of competent jurisdiction in UAE.

Illegal to work without employment visa

I joined a new company in April 2016. The company promised to issue me a visa, but they kept postponing it. It's been two months now and they have not paid my salary, either. I need to renew my passport in September. What is the grace period after the visa gets cancelled? I am not satisfied with the new company which has neither issued my visa nor paid my salary. Can I leave it?

Pursuant to your questions, it is illegal for an individual to work without a valid employment contract/visa approved by the Ministry of Human Resources & Emiratization (the "ministry"). Employing or getting employed in the UAE without valid employment contract/visa is a criminal offence. Article 11 of the Federal Law No. 6 of 1973 concerning immigration and residence, states: "The alien who obtains a visit visa may not work anywhere in the country with or without pay or for his own."

Any employer employing a person who is in the UAE without a valid work permit is equally guilty. Since you worked with your employer upon cancellation of your residence visa, you may not be eligible for any pay for the term you were illegally employed as there is no employment contract signed between you and your employer, which is approved by ministry. Usually, in UAE, the grace period upon cancellation of residence visa is 30 days (which includes day of cancellation) and upon completion of the grace period you have to pay the penalty for overstaying in the country to the Directorate General of Residency & Foreigners Affairs at the time you exit the country or at the time when your new employer applies for new employment entry permit. Since there is no any legal obligation between you and your new employer you are eligible to quit your employment anytime.

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