

File case in court if cash-strapped company fails to pay gratuity



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LEGAL VIEW

Q I worked for a company in Ajman for 11 years. Recently, there has been a lot of issues with pending salaries at the firm, so I decided to submit my resignation. I am now concerned about my end-of-service benefits. If a company claims that it doesn't have the funds to settle my dues, what are the legal actions I can take to demand payment?

A: We assume that you have resigned from your employment by serving the stipulated notice period mentioned in your contract. Therefore, the provisions of Federal Law No. (8) of 1980 regulating Employment Relations in the UAE (Employment Law) and the subsequent resolutions issued by the Ministry of Human Resources and Emiratization (MoHRE) are applicable.

It should be noted that an employee in the UAE is entitled to end-of-service benefits if he/she has completed one year of continuous service with his/her employer. As you have completed 11 years, you are entitled to receive your severance pay, which is calculated based on 21 days' basic salary for each year of your first five years in service and then 30 days' salary for each year of the remaining period. This is in accordance with Article 132 of the Employment Law.

If your employer does not pay your end-of-service benefits along with your pending salary, you may file a complaint with the MoHRE. And if the matter is not settled amicably between you and your employer, the ministry may issue a letter allowing both parties to file a case in court. Once it is heard in court and the judgment is issued in your favour, your employer will be obliged to settle the amount mentioned in the ruling. You should then file execution

proceedings against your employer.

However, if the company still fails to settle the amount mentioned in the judgment, the execution court will attach the assets of your employer, sell them, and pay the amount due to you. This is in accordance with Article 4 of the Employment Law, which states: "All amounts payable to the employee or his beneficiaries under this law shall have lien on all the employer's movable and immovable properties. And payment thereof shall be made immediately after payment of any legal expenses, sums due to the public treasury and Sharia alimony awarded to wife and children."

Know the law



If a company fails to settle an employees' dues after a court ruling has been issued, the execution court will attach the assets of the employer, sell them, and pay the amount specified in the judgment.

You can take roommate to court for failing to split bills

Q Can I file a case against a person over a 'breach of trust'? My former colleague offered to share a three-bedroom Dubai flat with me and we agreed to split the bill monthly. Now, he didn't pay his dues and ran away, leaving me with an outstanding balance of Dh8,888, which I already settled with an additional of Dh1,400 (maintenance charge) to get back my bank cheques. I called the police and they told me to call Dubai Courts. I don't know where to start.

A: Based on the Dubai Rental Law, a tenant in the emirate may have to obtain a written consent of the landlord to share a rented apartment with a third party. Such a consent from the

Know the law



For debts and claims that are less than Dh50,000, Dubai residents may a civil complaint against a debtor at the Centre of Amicable Settlement of Disputes.

landlord is necessary because subletting a rented apartment without approval is not in compliance with Article 24 of the Dubai Rental Law, which states: "Unless otherwise agreed by the parties to the lease contract, the tenant may not assign the use of or sub-lease the real property to third parties unless written consent of the landlord is obtained."

Therefore, if your former colleague stayed with you in the rented flat with the written consent of your landlord — and you have a sub-tenancy contract — then you may file a complaint at the Rental Dispute Centre (RDC) in Dubai. However, if the flat was shared without the landlord's consent, you may not be in a position to register a complaint at the RDC.

However, if you do not have the consent for the sharing set-up, as well as the sub-tenancy contract, you may still be able to file a civil case against your colleague — provided that you are in possession of documents that can prove you are sharing the rent and other utility charges.

Since your claim amount is less than Dh50,000, you may lodge the civil complaint at the Centre of Amicable Settlement of Disputes, a reconciliation department of the Dubai Court.

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