

Employer can't change salary without ministry's approval



LEGAL VIEW
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Q: I have been working under an employment contract of unlimited duration for a period of two years with a company in Abu Dhabi. In October 2017, my employer announced to all employees that due to slowdown in business the company shall reduce the salary of those who are earning above Dh10,000 by 15 per cent. They issued a letter to each individual stating the following:

"In order to cope up with current market conditions, maintain financial stability and protect employment of our employee, it has been decided to restructure the organisation. As part of this process, there shall be changes in monthly salary for a temporary period."

We signed the letter accepting reduction in salary. Since then, the company has been giving us a reduced pay. Is this legally correct? What is the definition of 'temporary period' and how long can a company stretch this? Does the second partner of the company have the right to sign and issue the salary reduction letter?

A: If the employer wants to reduce the salary, they should enter into a fresh employment contract signed by both parties and it needs to be submitted to the Ministry of Human Resources and Emirtisation (the 'Ministry') for approval.

Article 60 of the Federal Law No. 8 of 1980 regulating employment relations in the UAE (the 'Employment Law') states: "No amount of money may be deducted from an employee's remuneration in respect of private claims, except in the following cases:

(a) Recovery of advances or amount of money paid to the employee in excess of his entitlements, on condition that the amount deducted in this case does not exceed 10 per cent of his periodic remuneration;

(b) Contributions which the law requires the employee to pay from his remuneration, e.g. towards social security, insurance schemes;

(c) The employee's contributions to a savings fund or repayment of advances repayable;

(d) Contributions towards any welfare

scheme or in respect of any other privileges or services provided by the employer and approved by the Ministry;

(e) Fines imposed upon the employee for any offence made;

(f) Any debt payable in execution of the judgment of a court;

Provided the deduction shall not exceed one-quarter of the employee's remuneration. Where two or more debts are payable, the maximum shall be half the employee's remuneration and the sums of money attached shall be divided pro rata among the beneficiaries, after payment of any legal alimony at the rate of one-quarter of the employee's remuneration." Due to non-compliance of the provisions of the aforesaid article of the Employment Law, your employer may not reduce your salary.

Further, since the temporary period is not defined and specifically mentioned, the term of 'temporary period' mentioned in the letter is ambiguous.

Any person who is duly empowered and authorised by your employer to sign any documents relating to the ministry may sign any documents on behalf of your employer.

However, you and your colleagues may approach any Tasheel Centre to obtain further clarification on this matter.

Employee must get 3 months' salary as payout for 'arbitrary' dismissal

Q: I was employed on a limited duration employment contract by a free zone company in the UAE and was terminated shortly after I informed my employer that I am pregnant. The termination was on the grounds of poor performance and I was not served any warning notice (by letter or by email) prior to my termination. I had completed one year and three months of employment with my employer. I want to know if I am eligible for 3 months' salary compensation.

A: It is assumed that your employer is an entity registered in a free zone, which is governed by Federal Law No. 8 of 1980 regulating Employment Relations in the United Arab Emirates (the 'Employment Law').

An employer may terminate the employee based on non-performance as per the conditions laid down in Article 102 of the Employment Law. However, an employee should be notified in writing for non-performance of work and he/she should be allowed to defend himself/herself. This is in accordance with Article 110 of the Employ-

Know the law



If an employer terminates the services of an employee without assigning any reason, the employee may claim compensation for arbitrary dismissal, which may be a maximum of three months of the remuneration last drawn by the employee.

ment Law, which states: "None of the penalties prescribed in Article 102 may be imposed on an employee until he has been notified in writing of the charge against him, his statements have been heard, he has been allowed to defend himself and the foregoing has been entered in a report placed in his personal file. The penalty shall be entered at the end of this report.

An employee shall be notified in writing of any penalties imposed on him, and of the nature and amount thereof, the reasons for their imposition, and the penalty to which he will be liable in the event of a repetition of the offence."

Further, if an employer terminates the services of an employee without assigning any reason of termination, the employee may claim compensation for arbitrary dismissal, which may be a maximum of three months of the remuneration last drawn by the employee.

This is in accordance with Article 123 of the Employment Law, which states: "(a) Where an employee is arbitrarily dismissed, the competent court may order the employer to pay him compensation. The court shall assess such compensation with due regards to nature of the work, the amount of the 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 employee's remuneration for three months calculated on the basis of the last remuneration he was entitled to.

(b) The provisions of the preceding paragraph shall not prejudice the employee's right to the gratuity he is entitled to and the termination notice allowance provided for in this law."

Know the law



To reduce salary, the employer and employee must enter into a fresh employment contract signed by both parties and it needs to be submitted to the Ministry of Human Resources and Emirtisation for approval.

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