

TERMINATION OF EMPLOYMENT AND COVID 19, DOUBLE TRAGEDY FOR MANY!

Today, Uganda joins the rest of the world to celebrate the International Labour Day. This is most commonly associated as a commemoration of the achievement of the labour movement and is marked as a public holiday in over 80 countries around the globe.

Since the outbreak of the COVID 19 pandemic around the globe in 2020, the employment sector has been one of the areas of human lives that has been immensely affected and this has left a lot to be desired.

In an Article published by OXFAM International on the 29th day of April in 2021, it was noted that women got far more affected by the pandemic than men. Women globally lost more jobs to a tune of 64 million compared to men in 2020 who lost 3.9 percent. The number of people losing jobs is mincingly increasing because of various reasons all associated with the COVID 19 pandemic. This is through termination of employment contracts, cut off of employees, redundancy, and closure of business.

Section 2 of the Employment Act of Uganda defines termination of employment to mean the discharge of an employee from an employment at the initiative of the employer for justifiable reasons other than misconduct, such as expiry of contract, attainment of retirement age, etc.

Termination of employment, at the employer's initiative, could happen due to existent justifiable reasons, for instance, reduction in the workforce which entails layoffs and restructuring, frustration of the contract. Unsatisfactory employee performance or dissolution of the employer. A harmonized-purposive interpretation of Uganda's employment laws and the decisions of the Industrial (Labour) Court mandate an employer to terminate an employee's employment contract with a reason.

Section 68 (1) of the Employment Act, 2006 states that, "...in any claim arising out of termination, the employer shall prove the reason or reasons for dismissal and where the employer fails to do so, the dismissal shall be deemed to have been unfair within the meaning of **section 71** of the same act". Therefore, for the termination to be deemed lawful, the employer must follow these requirements of the law.

The first is Notice before termination or payment in lieu of notice.

As stipulated under **Section 58** of the Employment Act, unless a contract of employment is terminated summarily or due to attainment of retirement age, an employee must receive a notice of termination of employment from the employer.

The notice must be in writing and comprehensible by the employee, and the length of time in the notice must be complied with. For example an employer should give a not less than a two weeks' notice to an employee who has been in employment for more than 6 months but less than 1 year, a not less than one month notice to an employee who has been in employment for more than 12 months but less than 5 years, a not less than two months' notice to an employee who has been in employment for 5 years but less than 10 years, a three months' notice to an employee who has been in employment for 10 years or more, and a notice equivalent to the pay period where the pay period within which an employee is paid is longer than the period of the notice that the employee would be entitled to.

Non-compliance with the pre-requisites for the notice by the employer entitles an employee to payment in lieu of the notice. This is a payment that an employer must make to an employee for not giving an employee an advance appropriate notice that his/her employment will be terminated. It's the pay that an employer must provide for not having the employee work during the required notice period.

The second requirement which should be met by an employer before termination is conducting a hearing. In termination of employment, rules of natural justice apply, that is the right to be heard and rights against bias. It is provided under section 66 of the Employment Act that an employer shall explain to the employee the reason for his/her dismissal and the employee has the right to be heard and present his/her defence to the claims against him/her.

During the COVID Pandemic lockdowns, many Ugandans lost their jobs through illegal and/or unlawful termination. An employee who feels that his/her termination was unlawful has right to lodge a complaint with the Labour office in the specific district.

FIDA Uganda, through its Labour desk located at KCCA Offices, has provided and continues to legal services to the vulnerable Ugandans who fell victims of loss of employment during the pandemic.