

Legal Alert



THE UGANDA COURT OF APPEAL HAS UPHELD THAT EMPLOYERS CAN TERMINATE EMPLOYEES WITHOUT REASON BY PROVIDING NOTICE OR PAYMENT IN LIEU OF NOTICE.

Court of Appeal; Civil Appeal No. 182 of 2021; Stanbic Bank (Uganda) Limited vs Nassanga Saphinah Kasule

The Court of Appeal of Uganda (the “Court”) has reaffirmed an employer’s unrestricted right to terminate the employment relationship by providing notice or payment in lieu of notice.

Bwogi Kalibbala of M/s MMAKS Advocates represented Stanbic Bank (Uganda) Limited (the “Bank”) in this matter.

Background

The Respondent was employed by the Bank.

On 15th February 2001. The employment contract stipulated that either party could terminate the contract upon issuance of the requisite notice or payment in lieu of notice. Pursuant to this clause, the Bank terminated the Respondent. She challenged the termination before the Industrial Court, which held *inter alia* that the termination was unlawful as no reason was prescribed and no disciplinary hearing was

accorded to the Respondent. She was awarded Ug. Shs. 65,000,000 as general damages

Court of Appeal’s Judgment.

On the question of whether “*termination*” requires a reason to be lawful, the Court held that:

- i) This matter has been handled by both the Supreme Court and the Court of Appeal of Uganda, that an employer can terminate the employee’s employment contract for a reason or no reason at all.
- ii) It suffices that the employer has given sufficient notice as provided for under Section 58 of the Employment Act, 2006, (the “Act”), the employment contract, and any other document governing the said contract. Where notice is not given, payment in lieu of notice is required as provided for by the law and contract. In the instant case, a notice of termination of 3 months was issued, and the termination was, therefore, lawful.

- iii) The famous Article 4 of the Termination of Employment Convention No. 58 of 1982 relied upon by the Industrial Court to hold that a reason was required for every termination could only bear fruit if it were incorporated into the Act, but it was not.
- iv) A disciplinary hearing is only required in cases where an employer contemplates dismissal on grounds of misconduct or poor performance. Since this case involved a termination and not dismissal, a hearing was not necessitated.
- v) Damages awarded in employment matters are confined to loss suffered because the employer failed to give proper notice, and no damages are available to the employee for the actual loss of their job and pain or distress that they may have suffered because of the termination or dismissal. In the instant case, a payment in lieu of notice of 3 months was paid, and there was no need to award damages by the Industrial Court.

Relevance of the Decision.

- i) The Court has once again confirmed that employers have the right to end an employment relationship by giving notice in accordance with the employment contract or Section 58(3) of the Employment Act (the Act) or by paying in lieu of notice. In such cases, the employer is not required to provide a reason for the termination or hold a hearing. This is the long-standing position of the law.
- ii) The Court has guided on the principles on awarding damages in employment matters by clarifying that general damages are not available if the proper notice of termination or payment in lieu thereof has been made. Also, there is no damages for actual loss of the job and/or pain or distress that the employee may have suffered because of the termination or dismissal.

Should you require more information, please do not hesitate to contact **Ernest Sembatya Kaggwa, Bwogi Kalibbala** or **Alex Samson Ntale**.



Ernest Sembatya Kaggwa
Partner
sembatya@ug.aln.africa



Bwogi Kalibbala
Senior Associate
kalibbala@ug.aln.africa



Alex Samson Ntale
Principal Associate
ntale@ug.aln.africa

Disclaimer: The content of this alert is intended to be of general use only and should not be relied upon without seeking specific legal advice on any matter.