



Withdrawal of an Employment Offer

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Once a potential employee has been offered a job, an employer may choose to withdraw the offer for various reasons such as finding out that the prospective employee provided false information about their experience or character or lack of funds on the part of the employer. Where an employee was yet to accept the offer, then the employer has no obligation towards the potential employee and may withdraw the offer with no consequences. What happens where the employee has already signed the contract? Below are key issues to keep in mind:

An employment contract becomes valid once both parties have signed

The Employment Act requires that both the employer and the employee sign the contract of employment. Once the contract is signed, it is not necessary that a prospective employee report to work for the contract to take effect. This is because a contract of employment unlike any other contract, affects the employee's livelihood and in most cases, the employee has adjusted in view of the new job.

Where the contract has a probation clause, the employee should be treated as being on probation

The employee should be treated as an employee on

probation, since it is assumed that probation is to start from the time of signing the contract. Under the law, such an employee will be entitled to a 7-day notice.

Termination procedure must be followed

Where there is no probation clause, an employee who has a valid offer is to be treated like any other employee being terminated. The Notice of the rescission should therefore be given to the employee as it would be given to any other employee, or payment in lieu of notice.

Discriminatory conduct is applicable

The law on discrimination at employment covers potential employees even during the process of recruitment. An employee whose job offer has been withdrawn can validly sue the employer for discrimination if he is able to prove that the withdrawal of offer was based on the set out parameters for discrimination such as race, gender etc.