



What you are entitled to after employment termination

By Geoffrey E. Odongo

Termination of employment can be initiated by either the employer or the employee. A significant concern for employees after termination of employment relates to the rights and benefits they are entitled to.

What the employee is entitled to on termination of employment varies depending on how their employment was terminated. Generally an employee whose employment has been terminated other than by summary dismissal is entitled to the following rights and benefits:

1. Unpaid salary

Where prior to the termination of a contract of employment the employee had worked for some period but had not been paid, the employee is entitled to pay for the period he worked prior to termination of employment.

2. Pay in lieu of notice

Where an employer terminates an employee without giving the requisite notice, the employer will be required to pay the employee the amount that an employee would have received if she/he had worked during the notice period. If the employer is required to give the employee one month's notice but fails to do so, he will be required to pay the employee one month's salary in lieu of notice.

3. Payment in lieu of unutilized leave days

Where there are unutilized leave days upon termination of employment, an employee shall be entitled to pay for the unutilized leave days.

4. Severance pay

This is an entitlement for an employee who is declared redundant. The law provides that a severance payment must be made to such an employee of not less than 15 days' pay for each year the employee worked for the employer.

5. Service pay

An employee whose contract or employment is terminable by a notice of a period of one month or more is entitled to service pay. Service pay may be





computed at 15 days' pay for each year worked by the employee or more days. An employee is however not entitled to service pay if he/she is a member of a registered pension fund, gratuity or service pay scheme into which the employer remits funds.

6. Gratuity

This is a lump sum amount paid out where it is provided for in the contract of employment. It is normally paid at the end of the contract of employment or in the event of death.

7. Certificate of Service

An employee is entitled to a certificate of service upon termination of his employment. It is only issued to employees who have worked with an

employee for more than four (4) consecutive weeks. The Certificate of service will have the description of the employer and the employee, the date of commencement of the employment, the nature and place of the employment of employee and the date when the employee ceased to be employed by the employer.

8. Other benefits including payment for working overtime

This includes working on off days and on public holidays.

In the event that the employer fails, neglects or refuses to honour the above rights and benefits, an aggrieved employee may lodge a formal complaint at the local labour office or file a suit in court.