



5 mistakes employers make in the course of employment

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1 Failing to reduce the contract into writing

Where parties' intention is that a contract of service be written, it is the employer's responsibility to reduce the contract into writing, and ensure that both parties have signed. Although the Employment Act recognizes both written and oral contracts of service, having a written contract not only allows the employer and employee to have a common reference point but also avoids unnecessary disputes. Since, the Employer is responsible for drafting the contract, the burden of proving its existence or lack of it lies with the employer.

2 Failing to keep employment records

Section 74 of the Employment Act requires the Employer to keep employment records. These

records include any leave days and rest days due to the employee, particulars of housing where the employer provides the same and any other records relating to the employee. In addition to it being a statutory requirement, keeping records allows the employer to defend any claims from employees when they arise. Since it is the employer who is required to keep these records, employees' claims will always carry the day unless an employer can produce these records to rebut the claims.

3 Paying below the minimum wage

The law sets out the rates at which employees should be paid. This is meant to prevent employers from exploiting employees. This usually depends on factors such as the industry in which the employee is engaged in and the location of employment. Other factors such as the cost of living and the prevailing inflation rates are also taken into consideration. Where an employee is underpaid, they may succeed in a case for payment of the cumulative difference in lump sum, which may be very expensive for the employer.

4 Failing to remit statutory deductions

It is required that the employer deducts and remits a percentage of the employee's income to the government as tax known as 'Pay as you Earn' (PAYE). Other deductions include Social security as well as the National Hospital Insurance Fund, which are to be shared between the employer and employee. Where an employer fails to remit these, they may be required to remit the same in lump sum.

5 Lack of Disciplinary rules and procedures

Section 12 of the Employment Act requires an employer to provide employees with particulars of the disciplinary procedures and rules. Lack of comprehensive disciplinary procedures often results in arbitrary disciplinary measures that usually end in successful claims for unfair termination.