



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW, BUSINESS INTELLIGENCE AND ECONOMICS

DEPARTMENT OF LAW AND LEGAL SERVICES

EXAMINATION PAPER

MODULE CODE : LLB 323

MODULE TITLE : LABOUR & EMPLOYMENT LAW

SPECIAL REQUIREMENTS:

DURATION : 3 HOURS

LEVEL : 3.2

DATE : 08 DEC 2023

INSTRUCTIONS TO CANDIDATES

1. Answer any **two** questions from **Section A** and any **two** questions from **Section B**.

INFORMATION FOR CANDIDATES

1. Credit shall be given for referring to case law, statutes or any other authorities wherever applicable.
2. Notes, handouts and textbooks are not allowed into the examination.
3. Cellphones are not allowed into the examination room.
4. Begin each answer to a full question on a fresh page.

SECTION A

Question 1

Charles was dismissed from his employment by Marymount Company, the employer. He decided to appeal to the Labour Court. Hence he came up with the following grounds of appeal;

- a) The Disciplinary Authority was not properly constituted.
- b) The Disciplinary Authority did not prove all the essential elements of the charges I was facing.
- c) The Disciplinary Authority erred by not giving me the opportunity to cross examine witnesses.
- d) The Disciplinary Authority failed to note that the penalty given to me, even if one is to assume that I was guilty, was too excessive in the circumstances.

Required

With reference to decided case law authorities and statutory provisions, discuss the approach which the Labour Court is likely to take on each of the raised grounds of appeal.

[25 marks]

Question 2

Mr Mazwi was employed as a Security Guard by Simukai Bank. He was dismissed from employment following a disciplinary hearing. Mr Mazwi appealed to an arbitrator who ordered his reinstatement. Alternatively, Simukai Bank was ordered to pay \$5 000-00 to Mr Mazwi as damages in lieu of reinstatement. Simukai Bank then appealed to the Labour Court against the arbitral award. Subsequent to the arbitral award, Mr Mazwi applied to the High Court for its registration and it was duly registered. Mr Mazwi issued a writ of execution resulting in Simukai Bank applying for stay of execution pending the determination of the appeal which was pending in the Labour Court.

Required

Advise both parties on what they should do in order to solve their situation. **[25 marks]**

Question 3

Rutendo was employed by Selina Hotel which was in Harare as a general manager in 2020. Within the first year of her employment, an audit team reported violations by Rutendo of the motor vehicle loan scheme.

When she was asked about the violations she did not reply but she complained about her conditions of service. The hotel's revenue began to decline under her management. The employer explained about this but the situation did not change for the better. The employer proposed to transfer her to another hotel in Mutare on 1 June, 2021. The following day, Rutendo's legal practitioners wrote to the hotel advising it that it could not transfer Rutendo to Mutare as her contract of employment specifically stated that she would work in Harare. They further argued that Rutendo's husband required specialist medical care which could be found in Harare only. However, the hotel insisted that she was supposed to transfer to Mutare.

Required

Advise Selina Hotel which has approached you seeking legal advice. **[25 marks]**

SECTION B

Question 4

Discuss the protection that is accorded to employees engaging on lawful collective job action. **[25 marks]**

Question 5

'The employee's duty of good faith lies at the heart of the relationship between an employer and an employee' Discuss. **[25 marks]**

Question 6

How valid is the view that payment of damages is the most satisfactory remedy for breach of the employment contract by the employer. **[25 marks]**

[END OF EXAMINATION -100 MARKS]

0/50 AM