



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW

EXAMINATION PAPER

COURSE CODE : LLB 309
COURSE TITLE : Labour and Employment Law
DURATION : 3 Hours
LEVEL : 3.2
DATE :

INSTRUCTIONS TO CANDIDATES:

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

SECTION A

QUESTION 1

Mubaiwa was employed as a Security Guard by Shanduko Bank. He was dismissed from employment following a disciplinary hearing. Mubaiwa appealed to an arbitrator who ordered his reinstatement. Alternatively, Shanduko Bank was ordered to pay \$5 000-00 to Mubaiwa as damages in lieu of reinstatement. Shanduko Bank then appealed to the Labour Court against the arbitral award. Subsequent to the arbitral award, Mubaiwa applied to the High Court for its registration and it was duly registered. Mubaiwa issued a writ of execution resulting in Shanduko 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 2

Tatenda was employed by Prosperity Bank as a bank teller. On 15th June 2017, he was presented with \$50-00 for exchange with 300 rands. Tatenda then signed the payment slip to show that he had given the customer his change. The customer forgot to collect the change and went away. The customer then came back a month later to claim his change. A Closed Circuit Television footage confirmed the allegation that the customer had not been given his change. Tatenda was charged and dismissed. He appealed to the Grievance and Disciplinary Committee which reached a deadlock and referred the matter to the National Employment Council.

Required

- (a) Discuss the composition and powers of the National Employment Council to resolve the above disputes. (10)
- (b) Discuss the procedure which any aggrieved party may follow after the decision by the National Employment Council. (15)

[Total 25 marks]

QUESTION 3

Chido was employed by Zvavanhu (Pvt) Ltd as a clerk. She resigned from her position in December 2017. After her resignation, she approached the Labour Court arguing that her resignation was a result of constructive dismissal. The Labour Court did not give a judgement in Chido's favour and she decided to appeal to the Supreme Court citing the following reasons;

- (a) The Labour Court erred at law by holding that the Appellant was not constructively dismissed whilst there was overwhelming evidence to that effect.
- (b) The Labour Court erred in holding that the Appellant voluntarily resigned whilst she resigned because of the intolerable working conditions.
- (c) The Labour Court erred at law by failing to consider that the Appellant was entitled to leave days in her first three months of employment.
- (d) The Labour Court erred at law by failing to award a housing allowance although it was not part of the contract of employment.

Required

Advise Chido on her prospects of success on each of the raised grounds of appeal.

[25 marks]

SECTION B

QUESTION 4

Discuss the scope of the employee's duty of competence and efficiency.

[25 marks]

QUESTION 5

Evaluate the notion that damages in lieu of reinstatement provide adequate compensation for loss employment.

[25 marks]

QUESTION 6

Discuss the procedures which regulate the registration and enforcement of collective bargaining agreements.

[25 marks]

[END OF EXAMINATION -100 MARKS]