

# Of issues related to labour law

**Q:** I have just started working after completing my studies. Since I am new in my career, I would like to know, in detail, issues related to labour law.

1) Section 15 (2) of the Employment Act states that if an employee was absent for two consecutive days without informing or attempting to inform the company, it is classified as a breach of contract and is liable for automatic termination.

Is it necessary to request for the employee's reasons for absenteeism or can it be treated as a breach of contract, to be followed by automatic termination? Does the company have the right not to accept the employee when he reports to work on the third day without giving any reasons for his absence?

2) (a) A management-level employee earning about RM7,000

## Q&A CAREER

Do you have any questions regarding your job? Are there any aspects of human resource management that you like to know about?

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per month was not confirmed in his employment after having completed a three-month probationary period,

although his employment letter stated that his probation is for that duration. Is it right for the company not to notify him in writing whether his employment with the company is confirmed or not?

(b) What are the consequences if his confirmation is overdue for more than three months?

(c) Can it be assumed that he is automatically confirmed although he has not received any letter of confirmation?

*Labour Law, Petaling Jaya*

A: 1) Section 15 (2) of the Employment Act 1955 is a deeming provision. The employer has the right to act or not to act on the breach committed by the employee when he is absent from work for more than two consecutive working days without prior leave from the employer, unless

the employee has reasonable excuse for such absence and has informed or attempted to inform the employer of such an exercise.

In the event of breach of contract by the employee, termination of employment is not automatic.

If the employer chooses to terminate the contract of employment, assuming that all conditions have been satisfied under Section 15 (2), he may do so under Section 13 (2) of the Employment Act without notice. The action taken, should at the earliest, be at the end of the third day of absence. Termination of employment should be in writing.

It is also advisable and a matter of good practice that a show cause letter be issued to the employee before action is taken to terminate based on breach of contract so as to rule out any possibility of a "reasonable excuse".

2) (a) The manner of confirmation will be as stated in the contract of employment. If the contract of employment stipulates that confirmation or extension of probation is to be done by writing, then this is the stipulated manner of confirmation or extension.

(b) There are no hard and fast rules on the length of the probationary period. The period is as stated in the contract of employment.

(c) There is no law that provides that after three months' probation, a probationer is automatically confirmed.

The situation will be different if the contract of employment provides that the probationer is deemed to have been automatically confirmed if, at the end of the probationary period, he remains in employment and does not get any news from the employer on his status.