

Security of Tenure

On recruitment, security of tenure becomes an expectation of each employee. This is apparent where employment is offered on a full time and permanent basis. In the case of full time employment the employee has a fixed contract and is assured of a pension and in some cases a gratuity and other work entitlements, which form part of the conditions of employment.

In the instance where an employee is on probation, that individual becomes subject to security of tenure on the completion of the period of probation, which is usually that of six months. Probation does not usually apply to part-time and temporary employees.

Where an employee enjoys security of tenure, it means that the individual has protection from being unfairly dismissed. The guarantee of security of tenure means that an employee cannot be dismissed for causes other than those provided by the contract of employment or as stated under the law, and only after due process is accorded the employee. If an employee is dismissed without just cause, he is entitled to reinstatement and the payment of wages and/or salary which was due up to the time of actual reinstatement. This is a measure of comfort that a permanent employee enjoys over his counterpart who is temporarily employed.

What constitutes just cause? The act of stealing, cheating from, or lying to the employer, generally is grounds for dismissal. An employer may also terminate an employee for cause where an act of serious misconduct or willful disobedience has been committed by the employee with respect to the lawful orders of his employer or the duly authorized representatives, in connection with his/her work. Just cause also extends to gross habitual neglect by the employee of his duties, or an act of theft, fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized agent.

The courts will usually find that the employer had just cause to fire the employee. In lesser cases like occasional tardiness or inattention, the employer should first

warn the employee in writing, and give him/her a chance to remedy any failings, before proceeding to serve a dismissal notice.

One definition of security of tenure refers to it as the length of time that an employee has to hold office. With this can come the presumption that security of tenure allows the employee to maintain his employment for as long as he wants. This may be true, provided that the employee does not breach the Code of Conduct or any rules and regulations that govern the workplace. Added to this, where the employee is charged and found guilty of a crime by the law courts, this can also result in the termination of employment.

Those who work in the Public Service enjoy security of tenure once they have received a letter of appointment. In the Public Service this provides for a career job, which generally provides for retirement at age sixty. While Public Officers enjoy this status, they are expected to perform in their roles. Complacency should not be allowed to set in. They ought to be aware that apart from gross misconduct or misbehaviour, they can be dismissed for incompetency.

It is important that this does not escape the attention of the employee irrespective of whether they work in the public or private sector. It therefore requires a disciplined employee, who understands the rules, regulations, procedures and practices, and is prepared to follow them. It is also expected that the individual will remain conscious that his/her their behaviour in their social and private life, could impact negatively on the security of employment he/she enjoys.