

NATIONAL UNIVERSITY OF LESOTHO

FACULTY OF LAW

PGD IN LABOUR LAW (CONCILIATION AND ARBITRATION)

FINAL EXAMINATIONS

LPD 101- LABOUR LAW

MAY 2018

MARKS: 100

TIME: 3 HOURS

INSTRUCTIONS:

1. Answer **FOUR (4)** questions in all.
2. All questions carry equal marks.

QUESTION 1

Lebina teaches at Likotsi High School under supervision of the Headmaster. He earns a monthly salary of Three Thousand Maloti (M3, 000). The school is private and provides Lebina with teaching resources that he requires. Lebina is also provided with office space. There is however, a dispute about whether Lebina is employed as a teacher.

Discuss any **FIVE (5)** factors that must be considered in determining whether Lebina is an employee of the school. **[25 MARKS]**

QUESTION 2

Labenya Furniture has been working with Nthabiseng Moletsane, a talented designer, who has completed several contracts for Labenya for some time. Labenya is very happy with the standard of her work and Nthabiseng has just been offered a number of additional design briefs by Labenya with instructions on how the designs should be presented and a set of deadlines. Nthabiseng is free though to work where and when she wants, to refuse any of the design briefs and she can delegate or subcontract part of the whole design should she wish. Nthabiseng is happy with her arrangement with Labenya and she signs an individual agreement for each individual contract she has with Labenya stating that she is not an employee.

Moletsane Matobako is employed by Labenya in the factory as a carpenter. He has recently complained that he has been working very long hours (up to 60 hours per week), has not had a day off for four weeks and has had all holiday requests refused for 6 months. The factory's foreman (Moshemane) has told

Matobako that as they are all so busy, he cannot be spared. Matobako is very unhappy with this decision.

Jakobo works on a casual basis for Labenya. At peak times, he works as an upholsterer at Labenya Furniture. There is an understanding between Moshemane and Jakobo that he will work when needed. Jakobo was recently found fighting with another employee on the Labenya Furniture factory floor. Moshemane (the factory manager) has told Jakobo that Labenya Furniture will no longer be requiring his services. Jakobo has subsequently written a letter to Moshemane stating that he feels he was unfairly dismissed.

Moshemane seeks your advice on the employments status of each of the persons involved. You are required to advise Moshemane. **[25 MARKS]**

QUESTION 3

Discuss any **FIVE (5)** organisational rights recognised by labour law of Lesotho. **[25 MARKS]**

QUESTION 4

Fine Furniture has just received a claim form from an ex-employee, Bob Davies. Bob was formerly employed in the factory as a skilled woodworker and had worked there for 5 years. Bob is 50 years old. Bob's job involved helping fit bespoke kitchen units that had been manufactured in the factory. Bob would ensure that the units were fitted into client's kitchens in order to produce an excellent finish.

Bob was spotted by Yasmin last week in one of Fine Furniture's vans in his uniform at an address that was not an existing customer of Fine Furniture. When

challenged, Bob was unable to account for his presence at the address. Yasmin was angry as Bob was clearly “moonlighting” and asked Bob to meet her and Adam at a meeting later the same day. At the meeting, Bob was dismissed for “moonlighting” and told to leave immediately without any pay. Bob was not given an opportunity to speak and he was not told of a right to appeal. In his claim form, Bob states that other employees had also been found “moonlighting” but had merely been given warnings and not dismissed. He claims that Yasmin saw him at 9am and he was on his way to his first job. He admits that he had done a quick woodwork job but it was outside of office hours.

You are required to advise Fine Furniture on the legal issues arising from the factual scenario above. **[25 MARKS]**

QUESTION 5

Critically discuss the law on severance pay in Lesotho. **[25 MARKS]**

QUESTION 6

Discuss any **FIVE (5)** ways of terminating an employment contract in Lesotho. **[25 MARKS]**