

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DEPARTMENT OF LAW
FINAL EXAMINATION PAPER, MAY 2009

TITLE OF PAPER : **LABOUR LAW**

COURSE CODE : **IDE-L607**

STUDENTS : **B.COM. (IDE)**

TIME ALLOWED : **THREE (3) HOURS**

INSTRUCTIONS : **1. ANSWER ANY FOUR (4) QUESTIONS.**
2. ALL QUESTIONS CARRY EQUAL MARKS.

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INVIGILATOR**

LABOUR LAW (L607) EXAMINATION (B.COM IDE)
(MAIN EXAM)

Question 1

The question of whether or not dismissal is the appropriate sanction is a factual one.

The determination of an appropriate sanction is a matter largely within the discretion of the employer. However, this discretion must be exercised fairly.

Discuss the factors which an employer has to consider before imposing a sanction on an employee found guilty of misconduct.

[25 marks]

Question 2

A fair dismissal for misconduct should comply with two requirements.

Discuss in detail these requirements.

[25 marks]

Question 3

STJ Properties (Pty) Ltd advertised a vacant post for an accountant. Zanele Dlamini was one of the candidates who sent an application for the job. She was invited for an interview wherein she impressed the management and was duly offered a contract to read and sign if satisfied. Zanele signed the contract accepting employment with the company. As part of the company's policy Zanele had to undergo a medical examination before resuming her employment. The medical examination found that Zanele was pregnant.

The report was given to the company which then called Zanele to inform her that pursuant to the doctor's report the company was unable to let her resume work under the contract and was now cancelling the contract. Zanele intends to institute a case against the company for unfair dismissal. Advise her on her chances of success.

[25marks]

Question 4

- a) Give a definition of the contract of employment.
- b) State and discuss the five elements of a contract of employment.
- c) Discuss the requirements of a valid contract of employment.

[25 marks]

Question 5

The constitution of Swaziland guarantees to workers certain fundamental rights, discuss these rights. In your opinion what impact does the constitution has on labour law.

[25 marks]

Question 6

Discuss what constitutes constructive dismissal. Your answer should make reference to statute law and decided cases.

[25 marks]