

UNIVERSITY OF SWAZILAND

DEPARTMENT OF LAW

FINAL EXAMINATION PAPER, 2010 (MAIN)

TITLE OF PAPER : LABOUR LAW

COURSE CODE : L304

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS : ANSWER FOUR (4) QUESTIONS
ALL QUESTIONS CARRY EQUAL MARKS

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN
GRANTED BY THE INVIGILATOR.**

QUESTION ONE

Joel Black entered into a contract of employment with Trimex (Pty) Ltd. Under the contract, Mr. Black was employed as a workshop manager and was to earn a salary of E237, 550 per annum. In addition he was to receive a housing allowance of 15% of his salary, as well as a motor vehicle allowance of 8% of his salary.

On or about January 2009 Mr. Black was arrested and charged with assaulting his wife, Maxine Black. He was released on bail pending the outcome of his trial. Mr. Black continued to work during this time, taking time off as and when necessary to attend his case in the Magistrate's Court in Manzini. On or about March 2009 Mr. Black was convicted of the offence and was sentenced to 2 years in prison without the option of a fine. When the company learnt of the conviction, they terminated Mr. Black's services with immediate effect.

Discuss fully.

(25 Marks)

QUESTION TWO

Linda Dlamini completed her university training in May 2005 and in September of the same year graduated with a first class in the Bachelor of Commerce degree programme. Having performed so well in her studies, she was immediately snatched up by Tata (Pty) Ltd, a company specializing in financial services and having its offices in Mbabane. She was given a two year contract with very lucrative benefits, with the provision that if she performed her services well her contract would be renewed on new, better terms. During the two year term, there was no discussion between the company and Linda regarding her performance, and at the end of that period, her contract was not renewed. Linda is considering initiating legal action against the company for not renewing her contract on the basis that she had a legitimate expectation that her contract would be renewed.

Advise Linda on her chances in the matter.

(25 Marks)

QUESTION THREE

The law recognizes three types of dismissal, one of which is dismissal for redundancy. With the aid of decided cases, and referring to relevant legislative provisions, discuss this type of dismissal.

(25 Marks)

QUESTION FOUR

One of the remedies that the employee has is to request for specific performance of the contract by the employer. With reference to decided cases and relevant legislative provisions, critically analyse this remedy of the employee.

(25 Marks)

QUESTION FIVE

The court in the case *Nedbank Swaziland v. SUFLAW (ICA 11/2006)* stated that the Industrial Court no longer has jurisdiction to determine recognition disputes. Critically evaluate this statement.

(25 Marks)

QUESTION SIX

Sandile Dlamini was employed by Tetfu (Pty) Ltd until the 22nd of April 2010 when his contract was terminated. The event leading to his dismissal are that on the 18th of April, 2010 Sandile arrived at work in a questionable state of sobriety and went straight into his supervisor's office, closed the door behind him and proceeded to beat him senseless. He then left the office and the company premises, without talking to anyone or going to his work station. On the 21st April, the company driver was sent to Sandile's residence to deliver a letter terminating his services with effect from the 22nd April. The reasons for the termination as stated in the letter were drunkenness on duty, assaulting a fellow employee and absenting himself from duty without permission form the employer.

Sandile has come to you for advice on the matter.

(25 Marks)