

UNIVERSITY OF SWAZILAND

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FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

FINAL EXAMINATION PAPER, MAY 2012

TITLE OF PAPER : LABOUR LAW

COURSE CODE : IDE-L304/L607

TIME ALLOWED : THREE (3) HOURS

**INSTRUCTIONS : ANSWER QUESTION ONE AND ANY OTHER THREE
QUESTIONS?**

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

QUESTION 1 (Compulsory)

In the case of the *National Automobile and Allied Workers Union vs Borg-Warmer SA (Pty) Ltd*, the difference between the termination of a contract of employment and the termination of an employment relationship is clearly spelt out, according to modern law.

Discuss the facts of the case, legal arguments and the court's conclusion on the difference between an employment relationship and a contract of employment.

(25 MARKS)

QUESTION 2

"Our labour law constitutes the various rules regulating the employer-employee relationship". Explain what this entails in the context of Swaziland.

(25 MARKS)

QUESTION 3

Referring to the Industrial Relations Act, 2000, as amended by the Industrial Relations Act 2005, define a trade union and explain the effects, qualification and modalities for its registration.

(25 MARKS)

QUESTION 4

Sizwe was employed as a tailor on the 2nd January 2009 by Kangfa Textiles. Muzi was employed as a security guard on the 1st August 2011. There was a shortage of fabric in the firm and the managing director accused them from employment and allegations of stealing it and subsequently wrote letters to them dismissing them from employment on allegations of theft. In detail explain their remedies.

(25 MARKS)

QUESTION 5

Discuss the following:

- (a) The essential elements of a contract of employment. (10)
- (b) The duties of an employer. (8)
- (c) The difference between a contract of service and a contract of employment. (7)

QUESTION 6

Employees in terms of the common law and our statutory law have a variety of rights. Discuss them.

(25 MARKS)

QUESTION 7

- (a) Employees under your employ intend to engage in an illegal strike, what legal remedy is open to you? (15)
- (b) Discuss and give the difference between re-instatement and re-engagement. (10)

(25 MARKS)