

Employment Law

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In this issue

SOUTH AFRICA

Fixed-term contracts: Is early termination on notice lawful?



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EMPLOYMENT LAW
ALERTFixed-term
contracts: Is
early termination
on notice lawful?

In Solidarity obo Nel RH v Paramount Aerospace Systems (Pty) Ltd (JS72/2024) [2025] ZALCJHB 423, the Labour Court revisited whether an employer may end a fixed-term contract (FTC) before its expiry by giving contractual notice. Many employers assume that simple notice is sufficient, regardless of the underlying reason for dismissal. This judgment clarifies the distinction between contractual lawfulness and fairness under the Labour Relations Act 66 of 1995 (LRA), and offers practical guidance for those engaging employees on FTCs.

**Facts**

The court was asked to determine the lawfulness (distinct from the fairness) of terminating an FTC on one month's notice. The employee had an FTC with Paramount that was to end on a definite date or on completion of a specified project. The contract also stated that either party could terminate "by giving the other party 1 (one) month's notice".

When the project ended, Paramount invoked the notice clause to end the FTC. The employee alleged that the early termination was unlawful and sued for breach of contract.

**Issue**

The question was whether ending an FTC on mere notice, before its stated end date, amounted to an unlawful termination – i.e. a breach of contract. Notably, the claim was not for unfair dismissal under the LRA.



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Application of the law

Relying on Labour Appeal Court authority, the Labour Court confirmed the general rule: an FTC may not be ended before its agreed expiry unless (i) there is a repudiation or material breach, or (ii) the contract expressly permits early termination.

Where an FTC contains a clear clause allowing either party to terminate on notice, early termination in accordance with that clause is lawful and does not constitute a breach. In this case, the contract allowed termination on one month's notice without limiting the grounds for doing so. Accordingly, the employer's conduct was lawful.

The court also held that the reason for terminating the contract (for example, operational requirements) is irrelevant to the question of contractual lawfulness where the contract permits early termination on notice.

However, it is important to note that, depending on the context, lawfulness is not the end of the inquiry in employment matters. The LRA imposes a separate obligation to ensure that any dismissal is substantively and procedurally fair. Thus, even if an employer lawfully terminates an FTC under a notice clause, it must still meet the LRA's fairness standards (for example, following an appropriate process for misconduct, poor performance, or operational requirements) to avoid an unfair dismissal claim. In this case, the employee did not allege an unfair dismissal and iterated that this case is confined to a contractual claim.



Key takeaways

- If FTC expressly permits early termination on notice, ending the contract on the stipulated notice will not be a breach of contract and should not attract contractual damages.
- Depending on the facts of the matter, a lawful termination can be an unfair dismissal if it does not comply with the LRA's fairness requirements. Employers must follow the appropriate process aligned to the reason for dismissal.
- Parties should ensure that FTC contracts contain an unequivocal early termination on notice clause, drafted in clear terms and not limited by reason-specific wording unless that is intended.

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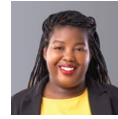
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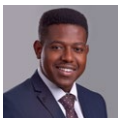
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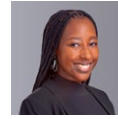
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Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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