

LITIGATION UPDATE

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ADVOCCAAT
LAW PRACTICE

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CAN AN EMPLOYER TERMINATE AN EMPLOYEE'S EMPLOYMENT WITHOUT STATING A REASON? [Mr. Vincent Ike V Fidelity Bank Plc.: Suit No: NICN/LA/598/2013](#)

Background

The notion has been widely held that an employer can terminate an employee's employment without stating any reason. This notion is supported by several decisions of Appellate Courts notably amongst them –**Osianya v. Afribank Nig Plc. (2007) 6 N.W.L.R (Pt.1031) page 565**. In **Olarewaju v. Afribank (2001) 6 MJSC 68 at 77**, the Supreme Court held that: *"The law regarding master and servant is not in doubt under this class of employment, there cannot be specific performance of a contract of service. The master has power to*

terminate the contract with his servant at any time and for no reason or for none."

However, in **Mr. Vincent Ike v Fidelity Bank Plc.**, the National Industrial Court took a slightly different view which, in our opinion, accords to common-sense and does not deviate from established principle on the subject. The court's position does not nullify the rightly held view that an employer can terminate an employee without stating a reason –it merely adds an important caveat to the principle.

Facts

Mr. Ike sued his former employers, Fidelity Bank Plc., alleging that he was wrongfully terminated and contended, amongst other things, that his employment was not terminated in accordance with the provisions of Personnel Policies & Procedure Guide ("PPPG") which governs the discipline of the Bank's employees. The PPPG expressly provided for the grounds upon which an employee's employment can be terminated.

The Bank on the other hand argued that Mr. Ike could not rely on the PPPG as the only document that regulates his employment with the Bank was his letter of employment.

Having carefully considered the arguments of Mr. Ike and the Bank, the court, delivering its judgment on the 19th of November, 2015, held that the terms of the PPPG were incorporated into the contract of employment of Mr. Ike and were to be construed in determining whether Mr. Ike was wrongfully terminated. The court held further that *"having reduced into writing the available grounds for termination of employment, the Defendant is bound to comply with its own personnel policies & procedure guide in the conduct of its relationship with its employees"*.

Commentary

The key point of note in this decision is that, though an employer is at liberty to terminate an employee without stating a reason, where there exists an employee manual that provides grounds upon which an employee can be terminated, the employer must ensure that the employee's termination falls under one of the stated grounds.

As a practical point, one way to avoid the pitfall in **Ike** is to ensure that the employees' manual expressly state that the employer can terminate an employee's employment without giving any reasons. This was the principal reason why the court agreed with Mr. Ike that his employment was wrongfully terminated. Had the PPPG expressly provided that the employment can be terminated without reason, it is doubtful that the court would come to the same decision.

HON. JUSTICE
J. D. PETERS

"I find and hold that in terminating the employment of the Claimant or any of its employees, the Defendant can only act within the stated grounds as contained in Exh. C4 ["PPPG"]. Any termination of employment outside of and without compliance with the policies and procedure as contained in Exh. C4 is therefore wrongful."

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