

# Handling labour disputes

## Employers must know their rights and duties

**W**ith Thailand enjoying steady economic growth these past few years, many companies have surpassed their targeted profits. When businesses make more profit, employees also earn more money, and things seem to be happy and smooth until one day the employees submit a demand and the employer refuses to grant it. And then, a labour dispute is born!

The employees go on strike, causing business to slow down or stop altogether. What an inopportune time for a labour dispute to take place when business is good. Why? The answer is simple: When business is prosperous, the employees would like to share in that prosperity through increased benefits from the employer. If such circumstances befall your company, as the employer, how should you handle the situation?

Should the company comply with the employees' demands to avert trouble? Practically, it is not possible, or even advisable. The company cannot give the employees everything they want even though its operation is profitable, because the money may be needed for other purposes, such as expanding the business.

Ideally, employers should be able to anticipate problems before they develop, but if they fail to do so, what should they do? The answer is, employers should be aware of their rights and duties under the Labour Relations Act in order to control and manage the situation properly.

According to the Labour Relations Act, both employees and employers are entitled to submit demands for changes in employment conditions. But usually, it is the employer who initiates such demands. Thus, when employees or unions submit demands to employers, the latter should respond by submitting counter-demands in order to achieve a better bargaining position.

The employer, after receiving the demands, shall provide the names of its representatives to the employees. Both parties begin negotiations within three days from the date of receiving the demands. If both parties are able to reach a settlement, they enter into a written agreement signed by their representatives.

Within three days from the signing, the employer shall display such agreement in an open area in the work place for at least 30 days. The employer must also register the agreement with the Ministry of Labour within 15 days from the date of signing.

If no negotiation takes place within the prescribed period or both parties fail to reach an agreement after the negotiation, it is deemed that a labour dispute has arisen. The party submitting the demand has to inform the labour dispute mediation officer in writing within 24 hours after the lapse of the three-day period or from the time the negotiation failed, as the case may be.

The officer shall attempt a settlement

between the parties within five days. If a settlement is reached, the employer shall proceed as described above. If not, both parties may appoint a labour dispute arbitrator, or the employer can order closure of work without paying wages to the employees, or the employees can go on strike. Before taking action, however, both parties have to give at least 24 hours' notice to the labour dispute mediation officer and to the other party.

Should the Ministry of Labour and Social Welfare be of the opinion that the closure of work or strike will adversely affect the economy or cause public hardship or endanger national security or constitute a threat to peace and order, the minister shall have the authority to do as follows:

- ◆ Order the employer to cease closure of work and pay wages.
- ◆ Order the employees to stop the strike and return to work.
- ◆ Arrange substitute workers in place of those employees not working because of closure of work or strike.
- ◆ Order the Labour Relations Committee to arrange for dispute arbitration.

It must be noted that after the employees submit their demands, the employer cannot terminate employment or take any action which may result in the employees, representatives of employees, committee members of the labour union or labour federation being unable to continue working by reason of the employees or labour union calling a rally or lodging a demand.

Violations by the employer shall result in punishment by imprisonment for a term not exceeding six months or a fine not exceeding 10,000 baht, or both. The employer may also have to pay compensation to the employees.

In the case of one company, the recipient of a recent demand from a union, it fired one employee for violating company regulations during the same period without enough evidence. The employee filed a lawsuit against the employer in Labour Court, which found the employer guilty and ordered it to reinstate the employee and pay compensation.

It is possible that the employer could have been prosecuted in a criminal case under charges of unfair treatment and would have had to pay substantial lawyer fees. Not only would the case have destroyed the image of the employer, but it would also have caused subsequent problems in managing the employees.

Labour disputes are a sensitive issue and if the employer doesn't deal with them carefully, he may have to spend some time in jail instead of his house.

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