

WHAT SHOULD ENTERPRISES KEEP IN MIND WHEN DISMISSING EMPLOYEES

In fact, the annual number of disputes arising from handling labor discipline is not small.

Although enterprises can prove that they have grounds to dismiss employees, they still have to fulfill compensation obligations as well as get employees back to work due to incorrect procedures.

These are the important points that enterprises need to keep in mind when disciplining employees

1

Collecting sufficient evidence to prove the Employee's violation

2

Follow the correct procedures to handle labor discipline in accordance with the law

3

Enterprise's obligations when handling illegal dismissal

1

Collecting sufficient evidence to prove the Employee's violation

Dismissal is the most severe form of disciplinary action against employees. Therefore, the law regulates quite strictly the cases in which enterprises are allowed to apply for dismissal.

In addition to properly understanding and applying the cases permitted by law, enterprises must prepare documents and evidence to prove the employee's violations.

In case an employee is dismissed due to arbitrarily quitting a job for 05 accumulated days within 30 days or 20 accumulated days within 365 days from the first day of arbitrarily quitting the job without any good reason, the competent authority will collect evidence from sources such as statements of witnesses, timesheet data; data of magnetic swipe card when entering and exiting the company; data extracted from cameras in the company, internal labor regulations, etc. to review and evaluate employees who arbitrarily quit their jobs or employees who come to work but the employer does not let them in; reason for leaving work

(If the employee leaves work due to a good reason such as natural disaster, fire, illness of himself or a relative with confirmation from a competent medical examination and treatment facility and other cases prescribed in the internal labor regulations, the employer's dismissal is unfounded).

In case an employee commits acts of theft, embezzlement, gambling, intentional injury, drug use, etc., in addition to proving the violation, the enterprise will have to consider documents and evidence proving the violation and the location where the violation occurred must be **within the scope of "at work"**.

In case the violation does not occur at the workplace, the employer is not allowed to discipline the employee in the form of dismissal

2

Follow the correct procedures to handle labor discipline in accordance with the law

Enterprises complying with the order of steps, document content, participants, etc. (collectively referred to as the labor disciplinary process) is considered a necessary and sufficient condition to determine that the enterprise's disciplinary decision is in accordance with regulations.

The legal disciplinary process is understood as the enterprise's compliance with the requirements of the statute of limitations for handling labor discipline, employees that do not fall into cases where handling labor discipline is not allowed, the process of organizing a meeting to handle labor discipline, sending notice of meeting invitation, participants, opinions of parties participating in the meeting, etc.

During participation in dispute resolution sessions related to the dismissal of employees, we realized that many enterprises were heavily affected. Although the dismissal decision was well-founded, the enterprises violated the procedures for dismissal, and they were assumed to violate the legitimate rights and interests of employees.

3

Enterprise's obligations when handling illegal dismissal

In case an enterprise does not handle dismissal in accordance with regulations, including the nature of behavior or procedures, the legal consequence is that the enterprise will be forced to get the employee back and fulfil obligations of compensation, salary, etc. in accordance with the provisions of labor law.