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THE LEGAL NATURE OF THE EXPLANATIONS OF THE VIOLATOR OF LABOR DISCIPLINE

Observation of the labor discipline at companies, institutions and organizations is ensured by the way of creation of the necessary institutional and economic conditions for the the normal work of high performance, conscious attitude to work, persuasion, attitude development, encouragement for dedicated work. Event of a non-performance or improper performance of an employee's labor duties is the basis for his subjection to disciplinary action (Art. 147 of the Labour Code of Ukraine). Extent to which disciplinary actions ensure labor discipline depends on the employer's compliance with the statutory order (Art. 147-149 of the Labour Code of Ukraine) of their imposition, including clarification of all the circumstances of the violation committed. At this stage of the disciplinary process, the violator has the right to defend actively against the accusations brought against him and to provide relevant explanations. They implement an individual's right to protection of the labor honor and dignity (Article 55 of the Constitution of Ukraine) and are an essential protection against unreasonable application of the actions. In particular, the violator's explanations objectively reflect an important feature of legal responsibility - to answer for their actions before decision on the punishment. They to some extent contain an assessment of the violator's behavior, sometimes - valuable information on the reasons and conditions of the violation.

The duty of the owner to demand an explanation from the violator of labor discipline is limited to the submitting of such

a demand. Violator's failure to provide explanations is not an obstacle to the imposition of the action. Head of the Company implements the disciplinary authority using statutory procedure which externalizes itself in the stages of the protective legal relationship. In particular, he should demand an explanation from the violator of labor discipline, to evaluate them in conjunction with other circumstances of the disciplinary case, etc. Counter-duty of the violator is to give explanations. In case of the employee's refusal the owner anyway implements his disciplinary legitimacy and imposes sanctions.

Head of the company always has the right to apply actions as his right to hire is fixed directly in the regulatory acts. It is obvious that he has a right to demand an explanation from the violator. However, the Head competent to impose action is not always authorized to demand explanations directly and he commissions other members of the administration. It should be pointed out that the matter will be decided by construction of Section 1, Art. 147 of the Labor Code of Ukraine. Managers mentioned in this Section «apply action» i.e. take the final responsible decision on the punishment. Therefore they have the right to entrust the preparatory work on demanding of the explanations and clarification of the circumstances of the violation to others persons of the administration. This conclusion is not in conflict with the law in force.

Equally important matters are the detailed fixing the the fact of the disciplinary

violation in order to remember the date of its commitment or discovery, to capture the essence of the violence and the guilt of the employee, to have a documentary basis for issuance by the Head of the company of the order (administrative order) on application of the disciplinary action.

Among all the possible materials of disciplinary proceedings the violator's explanation is the only evidence to which the law

refers, confirming its special meaning for rendering decision on the punishment. The violator may present his defense, motives, reasons and conditions for commitment of the violation, to refute the accusation against him. For the owner the explanation plays important role of the source of information, serves the basis for developing of organizational technical and local measures for prevention of similar violations.

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PROTECTION OF LABOR RIGHTS TO GET WAGES IN TIME

The issue of labor rights and interests remain at the center of science of labor law in the modern period. Scientists' offers to complete the list of basic labor rights law to protect their labor rights and interests, including the possibility of seeking protection from jurisdictional authority, the ability to protect persons granted it the right to their own activities, including resort to methods of self-protection of labor rights.

Consider the developments of national scientists in the field of labor rights and interests of workers it is possible to determine the mechanism of protection of employee to get wages in time as set jurisdictional and no jurisdictional forms of organizational, procedural and procedural methods, substantive means to combat and prevent violations of this law and its renewal.

Forms of protection of employee to get wages in time is possible to define as the activities authorized bodies, employees and their representatives on the application provided ways and means by the legislation which are directed to prevent violations of this law and its renewal.

Jurisdictional forms of protection of employee to get wages in time should be considered protection of these rights of bodies dealing with labor disputes and supervisory and control over the observance of labor legislation. It is needed to include before jurisdictional procedure for resolving disagreements regarding payment of wages in time to no jurisdictional forms (settlement of differences in direct negotiations with the employee by the employer) and employee self-protection of the right.