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FEATURES OF TERMINATION OF EMPLOYMENT CONTRACT BY THE EMPLOYER ACCORDING TO CLAUSE 2, PART 1, ARTICLE 40 OF THE LABOUR CODE OF UKRAINE

The article describes the procedure for termination of the employment contract by the employer in the event of revealed inconsistency of the employee with job or with work performed that prevents continuing this work. The basic problems consist in regulating this issue. Relevance of the chosen topic is determined by the fact that labor legislation of Ukraine gives quite an extended list of grounds for termination of an employment contract. The law recognizes the right of parties to the employment contract to its unilateral termination and termination of existing employment relationship between the parties in accordance with the rules established by regulations in the workplace. Owner, unlike the employee has no right to terminate the employment contract concluded for an indefinite period at his/her own discretion. He/she has the right to terminate the employment contract only under the conditions which give the right to terminate the employment contract according to the current law. One of such bases is the revealed inconsistency of the employee with job or with work performed as a result of insufficient state of health. Today, due to the lack of a clear mechanism, this reason is rarely used by employers. Therefore, in our opinion, the

mentioned problems require additional research.

The article provides the definition of the term “revealed inconsistency of the employee with job or with work performed”, analyzes the legal framework of the issue and establishes the health requirements to the employee, providing the possibility of dismissal.

It is concluded that the labor legislation in Ukraine today is outdated and does not meet modern requirements of the state; often its provisions not only overlap, but also contradict each other. A striking example is the rules governing the dismissal by the employer in the event of revealed inconsistency of the employee with job or with work performed as a result of insufficient state of health that prevents continuing this work. Carrying out a detailed analysis of this type of dismissal, the following conclusions can be made. It is necessary to enshrine the definition of “revealed inconsistency of the employee with job or with work performed as a result of insufficient state of health” in law. In addition, it seems appropriate to set requirements for workers’ health, namely, permanent disability, as such, preventing continuation of the work as a ground for termination of the employment contract by the employer.