

REFUSAL TO PERFORM WORK NOT PROVIDED FOR IN THE EMPLOYMENT CONTRACT AS A FORM OF SELF-DEFENSE

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Abstract

The article is devoted to the analysis of such concepts as “self-defense of the employee’s labor rights, implementation of ongoing reforms in this area, filling gaps in the legislation”, improvement of current legislative documents in this area, as well as increasing efficiency in the field of self-defense of the labor rights of employees using the latest information systems.

Keywords: Monthly salary, taxes and fees, severance pay, employment contract, self-defense, transfer to another job.

MEHNAT SHARTNOMASIDA NAZARDA TUTILMAGAN ISHNI BAJARISHNI RAD ETISHI O‘ZINI O‘ZI HIMOYA QILISH SHAKLI SIFATIDA

Annotatsiya:

“Xodimning mehnat huquqlarini o‘zi tomonidan himoya qilinishi, bu boradagi olib borilayotgan islohotlarni amaliyotga tadbiq etish, qonunchilikdagi bo‘shliqlarni to‘ldirish” kabi tushunchalarni, amaldagi qonunchilik hujjatlarini ushbu sohada takomillashtirishni, shuningdek, xodimlarning mehnat huquqlarini o‘zi tomonidan himoya qilinishi sohasida eng so‘nggi axborot tizimlaridan foydalangan holda samaradorlikni oshirishni tahlil qilishga bag‘ishlangan.

Kalit so‘zlar: oylik ish haqi, soliqlar va yig‘im, ish haqidan ishlab qolish, mehnat shartnomasi, o‘zi tomonidan himoya qilish, boshqa ishga o‘tkazish

ОТКАЗ ОТ ВЫПОЛНЕНИЯ РАБОТЫ, НЕ ПРЕДУСМОТРЕННОЙ ТРУДОВЫМ ДОГОВОРом, КАК ФОРМА НЕОБХОДИМОЙ ОБОРОНЫ



Аннотация:

Такие понятия, как «самозащита трудовых прав работника, реализация проводимых в этой связи реформ, восполнение пробелов в законодательстве», совершенствование действующих правовых документов в этой области, а также самозащита. трудовых прав работников, посвященный анализу повышения эффективности с использованием новейших информационных систем в области

Ключевые слова: месячная заработная плата, налоги и сборы, доходы от заработной платы, трудовой договор, самозащита, перевод на другую работу.

Introduction

Unilateral refusal to perform labor obligations not provided for in the employment contract is a case in which an employee who has been illegally transferred to another job can legally use self-defense. Since transfer to another permanent job is the most significant change in the terms of the employment contract, labor legislation establishes that it can be carried out only with the written consent of the employee. The employment contract indicates the employee's labor function (work in accordance with the staffing table, profession, specialty indicating qualifications, specific type of work entrusted to the employee). Any unilateral change by the employer of any of these conditions is considered illegal transfer to another job. The employer's unilateral change of the employee's labor function leads to a violation of the employee's rights provided for in the employment contract. In such a situation, the employee may justify the fact that the proposed work is not provided for in his employment contract and refuse to perform it. An employee has the right to such a refusal only in the event of an illegal transfer to another job.

Transfer is a change in the employee's job duties, that is, the assignment of work to another specialty, qualification or position within the same enterprise. Transfer is a horizontal movement of an employee within the same enterprise, that is, a change in the place of work, without any changes or revisions to the salary and responsibilities. When an employee is transferred to another job, he is usually transferred from one job to another in another place, department or within one department. In this case, the job duties that the employee must perform, specified in the employment contract concluded between the employer and the employee, change to another job available in this enterprise in connection with the transfer. Of course, the administration needs good reasons to carry out the procedure for transferring an employee from one job to another. Based on the practice of labor relations, the following most common reasons for transfer can be distinguished. An employee can be transferred to another job on a temporary or permanent basis.

Article 4 of the Labor Code of the Republic of Uzbekistan establishes the principle of equality of labor rights, prohibition of discrimination in the field of labor and occupation, and states that everyone has equal opportunities in the implementation and protection of labor rights, from which it follows that the relations of employees in the field of the implementation of labor rights constitute the basic principles of the Labor Code.

Article 8 of this Code states that the deterioration of the legal status of an employee should not be allowed, and no regulatory legal act should worsen the legal status of an employee in



comparison with a regulatory legal act of higher legal force. No internal document, individual legal act of the employer may worsen the legal status of an employee in comparison with regulatory legal acts.

In short, work not provided for in the employment contract, i.e., the employer transferring you to another job without the employee's consent, or transferring you to another position, is specified in the terms of the employment contract concluded between you (the employee) and the employer. Failure to comply with this condition will result in the invalidity of the terms of the employment contract.

Article 133 of the Labor Code establishes the grounds for amending an employment contract. The grounds for amending an employment contract are:

- change in working conditions;
- transfer of an employee to another job;
- change of location due to the employer's relocation;
- sending an employee on a temporary business trip to another employer;
- change of place of work specified in the employment contract.

So, it follows that an employee can refuse work not provided for in the employment contract, that is, work not provided for in the employment contract is defined by the above article of the Labor Code as work not provided for in the employment contract, which is the case when the employee is transferred to another job and must change the employment contract. Work not provided for in the employment contract can include changes in working conditions, transfer of the employee to another job, and other circumstances.

Article 138 of the Labor Code establishes the grounds for transferring an employee to another job. Changing the employee's job duties while continuing to work for the same employer is considered a transfer of an employee. An employee may not be transferred to another job if there are contraindications for the employee based on his or her health status, confirmed by a medical report.

According to the new Labor Code, which is being adopted by the Oliy Majlis of the Republic of Uzbekistan, if an employee is temporarily transferred to another job, its exact duration must be determined. The duration of the employee's temporary transfer to another job can be determined by:

- indicate the total duration of the temporary transfer in days, months, years;
- indicate the calendar date on which the transfer to which the work is carried out begins and the calendar date on which the transfer period ends;
- determine the event by which the transfer period ends (return to work of a temporarily absent employee, etc.)

When the temporary transfer of an employee to another job expires, the employer must return the employee to his previous job as specified in the employment contract. Of course, when an employee is transferred to another job, his consent is required. Before obtaining the employee's consent, the employer must familiarize the employee with the new job, internal documents, and regulations.

Article 140 of the Labor Code states that the permanent transfer of an employee to another job is allowed only with his consent. The temporary transfer of an employee to another job is carried out with his consent, except for cases of production necessity or redundancy in



accordance with Article 145 of this Code. In connection with production necessity or redundancy, the temporary transfer of an employee to another job not stipulated in the employment contract is allowed without the employee's consent, at the initiative of the employer. Bunda ishlab chiqarish zaruriyati quyidagilar kiradi:

- The need to prevent or eliminate a natural disaster, accident or their immediate consequences;
- The need to prevent accidents, downtime, death or property damage;
- The need to replace a temporarily absent employee and other special cases.

Unemployed is a temporary suspension of work due to economic, technological, organizational, other production or natural reasons. If there are indications that the employee is not fit for another job due to his health, transfer to another job is prohibited. Temporary transfer of an employee to a job requiring lower qualifications due to unemployment is allowed with the written consent of the employee.

When an employee is temporarily transferred to another job due to production necessity and unemployment, he must be paid wages based on the salary for the work performed, but not less than the average monthly salary received for the work previously performed. The transfer of an employee to another job for the above reasons should not exceed sixty calendar days in a year.

By agreement of the parties to the employment contract, an employee may be temporarily transferred to another job with the same employer for a period of up to one year. In the event that such a transfer is carried out to replace a temporarily absent employee who retains his or her job in accordance with the law, the transfer may be made until the employee returns to work. If, upon the expiration of the transfer period, the employee has not been given his or her previous job, the employee has not requested it and continues to work, the condition of the agreement on the temporary nature of the transfer shall cease to be valid and the transfer shall be considered permanent.

In our national legislation, an employee may also request the employer to transfer him or her to another job. The employer must implement the employee's application for transfer to another job in the following cases:

- if, according to a medical report, the employee needs to be temporarily transferred to a job that is easier or eliminates unfavorable production factors due to his or her state of health, the availability of that medical report;
 - if, according to a medical opinion, a pregnant woman needs to be temporarily transferred to a lighter job or one that eliminates the effects of unfavorable production factors, the availability of such a medical opinion;
 - if a woman with a child under two years old or another person who is actually caring for the child cannot perform her previous job;
 - if the employee's request is really justified and the employer has a vacancy for transferring the employee to another job. The list of justified reasons for transferring the employee to another job on the initiative of the employee may also be established by a collective agreement.
- The grounds for permanent transfer to another job based on the employee's health condition are established. In the event of a vacant job, the employer is obliged to transfer an employee who, in accordance with his health condition, requires permanent transfer to a job that is lighter



or excludes the effects of unfavorable production factors, and does not have contraindications due to his health condition, with his consent. In the event that the employee refuses to be transferred to another job provided for in the first part of this article, as well as if the employer does not have another job that is not contraindicated due to the employee's health condition, the employment contract concluded with the employee may be terminated due to the employee's refusal to be transferred to another job that is not contraindicated due to the employee's health condition or the employer's lack of appropriate work, provided that the employee is paid the severance pay provided for in Article 173 of this Code and the guarantees provided for in Article 100 are provided.

From the above considerations, we can conclude that when transferring to another job by changing the employment contract between the employer and the employee, it is necessary to clarify the period for which this change is being implemented, the terms of starting and ending another job must be reflected in the changes made, and in addition, the employer must take into account the employee's health condition, specialization and qualifications.

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