职场必备法律知识

Essential legal knowledge for the workplace

Labour Court Proceedings

劳工法庭诉讼程序

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CCS Insights

Labour Court Proceedings

劳工法庭诉讼程序

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Malaysian Labour Law and Dispute Resolution System

职场必备法律知识:

Labour Court Proceedings

- The procedure for filing a complaint with the labour courts is informal and reasonably straightforward. I benefited from the opportunity to observe the Subang Jaya labour court's hearing rooms and learn about how this quasi-judicial function is performed.

- When a person files a formal complaint with the Labour Department about non-compliance with the Employment Act or a clause in the Employment Contract with monetary implications, the other party involved will be summoned to the Department for an interview in order to determine whether or not he/she is liable for the claim.

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Labour Court Proceedings

- If the accused party does not agree with the claim, a date for a mention (A court mention will generally be the first point of your interaction with the courts) before a labour court is set by the official, and the employer and employee are notified.

- On the mention date, the labour court official attempts to resolve the conflict through discussion and conciliation. Alternatively, the employer may consent to a settlement (where the complaint was filed by an employee) or the parties may reach an arrangement that is mutually advantageous, in which case a consent order is issued.

Malaysian Labour Law and Dispute Resolution System
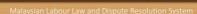
Labour Court Proceedings

- When a claim is contested or it is discovered that one of the parties involved is not present, a hearing date is set and all parties are notified of the hearing date and time.

- A hearing is held during which evidence is presented, and the labour officer handling the proceedings delivers a decision.

- Although there are no fees associated with accessing labour courts and the EA contains no express rules governing representation, such as lawyers, trade union representatives, or human resource (HR) consultants, the labour officer presiding over the hearing retains the discretion to permit or restrict representation in practice.

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Labour Court Proceedings

- For complaints regarding labuor issues, the Department of Labour's internal Key Performance Indicator (KPI) is to complete the investigation and communicate the outcome of each complaint within 30 days of the date of the complaint. As for labuor courts require disputes to be resolved within 90 days of referral. However, this seems quite challenging because of the high number of requests for postponement.

- According to internal practices directions, a maximum of two postponements may be granted; however, labour officers who preside over cases retain the discretion to grant more postponements if there are exceptional circumstances apparent.

- As indicated previously, these labour court decisions may be appealed to the High Court. For these decisions, the Court of Appeal is the last appellate court.

Malaysian Labour Law and Dispute Resolution System

劳工法庭诉讼程序

- 向劳工法庭提交投诉的程序是非正式的，而且相当直截了当。我受益于有机会观察梳邦再也劳工法庭的听证室，并了解这种准司法职能是如何履行的。

- 当一个人就不遵守《1955年劳工法令》或雇佣合约中涉及金钱的条款向劳工部提出正式投诉时，涉及的另一方将被传唤到劳工部进行面谈，以确定他/她是否对索赔负责。

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劳工法庭诉讼程序

- 如果被指控的一方不同意索赔，劳工部官员就会确定在劳工法庭上的提审日期 (法庭提审通常是你与法庭互动的第一点)，并通知雇主和雇员。

- 在提审日期，劳工法庭官员将会试图通过讨论和调解来解决纠纷。或者，雇主可以同意和解 (如果投诉是由雇员提出的)，或者双方可以达成对双方有利的安排，在这种情况下，会发出同意令 [Consent Order]。

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劳工法庭诉讼程序

- 当对索赔有争议或发现其中一方不在场时，劳工法庭官员将确定听证日期，并将听证日期和时间通知所有各方。

- 在听证会上，各方将提交证据，并由处理诉讼的劳工官员作出裁决。

- 虽然劳工法庭的诉讼不需要任何费用，而且《1955年劳工法令》中也没有关于律师、工会代表或人力资源（HR）顾问等代表的明确规定，但主持听证会的劳工法庭官员在实践中，保留允许或限制代表的自由裁量权。

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劳工法庭诉讼程序

- 对于劳工事项的投诉，劳工部的内部关键绩效指标 (KPI) 是在投诉日起30天内要完成调查并告知结果。至于劳工法庭的诉讼，则要在移交后90天的内解决。然而，这似乎是蛮有挑战的，因为要求推迟的案件很多。

- 根据内部惯例指示，最多可以批准两次的延期；但是，如果有明显的特殊情况，主持案件的劳工官员保留批准更多延期的酌处权。

- 如前所述，对这些劳工法院的裁决可以向高等法院 [High Court] 提出上诉。对于这些决定，上诉法院 [Court of Appeal] 是最后的上诉法院 [last appellate court]。

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