

# HANDLING LABOR DISPUTES: HOW EMPLOYERS SHOULD DEAL WITH UNION OR EMPLOYEE DEMANDS

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With Thailand enjoying steady economic growth these past few years, many companies have reached or surpassed their targeted profits. When businesses make more profit, employees also earn more money, and things seem to be happy and smooth—until one day the employees submit a demand and the employer refuses to grant it. Just like that, a labor dispute is born!

The employees go on strike, causing business to slow down or stop altogether. What an inopportune time for a labor dispute to take place when business is good. Why? The answer is simple: When business is prosperous, the employees would like to share in that prosperity through increased benefits from the employer. If such circumstances befall your company, as the employer, how should you handle the situation?

Should the company comply with the employees' demands to avert trouble? Practically, it is not possible, or even advisable. The company cannot give the employees everything they want even though its operation is profitable, because the money may be needed for other purposes, such as expanding the business.

Ideally, employers should be able to anticipate problems before they develop, but if they fail to do so, what should they do in such a situation? The answer is, employers should be aware of their rights and duties under the Labor Relations Act in order to control and manage the situation properly.

According to the Labor Relations Act, not only employees are entitled to submit demands for changes in employment conditions. Employers are also entitled to do so, but in most situations, it is not the employer who initiates such demands. Thus, when employees or unions submit demands to employers, the latter should respond by submitting counter-demands in order to achieve a better bargaining position.

The employer, after receiving the demands, shall provide the names of its representatives to the employees. Both parties begin negotiations within 3 days from the date of receiving the demands. If both parties are able to reach a settlement, they enter into a written agreement signed by their representatives. Within 3 days from the signing, the employer shall display such agreement in an open area in the work place for at least 30 days. The employer must also register the agreement with the Ministry of Labor within 15 days from the date of signing.

If no negotiation takes place within the prescribed period or both parties fail to reach an agreement after the negotiation, it is deemed that a labor dispute has arisen. The party submitting the demand has to inform the labor dispute mediation officer in writing within 24 hours after the lapse of the 3-day period or from the time the negotiation failed, as the case may be. The officer shall attempt a settlement between the parties within 5 days. If a settlement is reached, the employer shall proceed as described in the previous paragraph. If not, both parties may appoint a labor dispute arbitrator, or the employer can order closure of work without paying wages to the employees, or the employees can go on strike. Prior to taking action,

however, both parties have to give at least 24 hours' notice to the labor dispute mediation officer and to the other party.

Should the Ministry of Labor and Social Welfare be of the opinion that the closure of work or strike will adversely affect the economy or cause public hardship or endanger national security or constitute a threat to peace and order, the minister shall have the authority to do as follows:

1. Order the employer to cease closure of work and pay wages.
2. Order the employees to stop the strike and return to work.
3. Arrange substitute workers in place of those employees not working because of closure of work or strike.
4. Order the Labor Relations Committee to arrange for dispute arbitration.

It must be noted that after the employees submit their demands, the employer cannot terminate employment or take any action which may result in the employees, representatives of employees, committee members of the labor union or labor federation being unable to continue working by reason of the employees or labor union calling a rally, lodging a demand, etc. Violation by the employer shall result in punishment by imprisonment for a term not exceeding 6 months or a fine not exceeding Baht 10,000, or both. Furthermore, the employer may also have to pay compensation to the employees.

Some employers have had the unfortunate experience of making this mistake and paying dearly for it. In the case of one company, the recipient of a recent demand from a union, it fired one employee for violating company regulations during the same period without enough evidence. The employee filed a lawsuit against the employer in Labor Court, which found the employer guilty and ordered it to reinstate the employee and pay compensation. It is possible that the employer could have been prosecuted in a criminal case under charges of unfair treatment and would have had to pay substantial lawyer fees and waste time in court. Not only would the case have destroyed the image of the employer, but it would also have caused subsequent problems in managing the employees.

Labor disputes are a very sensitive issue and if the employer doesn't deal with them carefully, he may have to spend some time in jail instead of his house. ♦