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TO THE QUESTION OF THE ORDER OF APPEAL TO THE COMMISSION ON LABOR DISPUTES ON THE LEGISLATION OF THE REPUBLIC OF BELARUS

In accordance with Part 1 of Art. 236 of the Labor Code of the Republic of Belarus, the Labor Disputes Commission (hereinafter - the LC and the LDC, respectively) is the mandatory primary body for the review of labor disputes, except in cases when the LC and other legislative acts establish a different procedure for their consideration [3].

On the basis of Part 4 of the Regulation on the procedure for the consideration of individual labor disputes by the Labor Disputes Commission, the right to apply to the Commission is provided to employees who are in employment relations with the employer. The dismissed workers have the right to apply to the commission only if their claim arises from the employment relationship with the employer (clause 4.1) (hereinafter referred to as the Regulation) [2].

It should also be noted that according to clause 4.2 of the Regulations, the employee has the right to apply to the LDC in both written and oral form. The written application of the employee must contain: the name of the commission with the indication of the employer; the surname, the name, the patronymic, the indication of the address of the applicant; the name of the work or position held by the employee; the essence of the labor dispute. In the case of the application in an oral form the registration log details the information that the employee must indicate in the written application [2].

The LDC does not have the right to refuse to accept the application for the employee because of the non-jurisdiction of the dispute. The application must be considered by the LDC, and if the dispute is not subject to consideration in the LDC, a decision is made to refuse to resolve the dispute. The LDC has the right to refuse to accept the application if the dispute has already been the subject of the LDC's examination and the decision was taken on it or if the LDC members could not come to an agreement.

One of the frequently admitted violations in the practice of the LDC, which has been repeatedly pointed out in the legal literature, is the failure to comply with the requirements of the law regarding an equal number of representatives of the trade union and the employer participating in the consideration of the labor dispute [1, p. 17].

We believe that a significant gap is the lack of consolidation at the legislative level of the quantitative composition of the LDC. The parties may, by mutual agreement, independently determine the number of their permanent representatives in the LDC, depending on the number of employees, the number of labor disputes that arise and other relevant circumstances. The employer appoints his representatives to the LDC with the appropriate order of the head, and the trade union - by the relevant decision of the trade union committee. A trade union representative can be any employee - a member of this union. Representatives of the employer in the LDC are, as a rule, employees of the personnel service, legal advisers, and economists.

In our opinion, when determining the personal composition of the representatives of the parties, it is necessary to take into account the availability of specific knowledge of legislation in the field of labor and wages, as well as personal qualities allowing to resolve the labor dispute objectively, comprehensively and correctly.

Thus, despite fairly complete legislative regulation of the LDC, there are unresolved issues that are subject to review and subsequent settlement. In particular, it is advisable to consolidate the equal quantitative composition of the LDC in the LC.

This provision will allow more rapid agreement between the members of the LDC and settle the dispute.

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