

How to resolve labor disputes in court?



Step 1

Application for Labor Dispute Mediation or Initiation of Proceedings

《Court》

- ◆ It is possible to apply for mediation or to initiate proceedings for labor disputes with the court where the defendant's residence, main business premise or main office is located or where the labor service is rendered within its jurisdiction.
- ◆ If the employer initiates proceedings or applies for mediation, the worker can apply for removing the case to a chosen court having jurisdiction from the aforesaid competent courts.

《Mediation First》

- ◆ Before initiating proceedings, it is necessary to apply for labor dispute mediation first. If proceedings are initiated without mediation, it is deemed as an application for labor dispute mediation. However, it is possible to choose between applying for mediation or initiating proceedings directly in the following circumstances:
 1. Where mediation by another legally authorized mediatory agency has been sought with no successful result; where a counterclaim is made; or where the notice arriving at the other party was serviced by publication or in a foreign country.
 2. Where the dispute arose due to sexual harassment.

《Method》

- ◆ A pleading must be submitted for the application for mediation or the initiation of proceedings for labor disputes. However, if the claim amount or the value is below NT\$500,000, the pleading for the application of mediation or the initiation of proceedings may be submitted orally to the court clerk.

《Fees》

- ◆ An application fee shall be paid for submitting an application for mediation (Note).
- ◆ When initiating proceedings, it is necessary to pay for the court fee. However, a worker only needs to pay 1/3 of the court fee if the employment relation has been established or if the claim is for wages, pensions or severance payment. The remaining 2/3 of the court fee is temporarily exempted and shall be paid by the party who loses in the proceedings.
- ◆ If the application fee is not affordable, it is possible to apply for litigation aids. Once approved, the application fee and the court fee shall be exempted.

Step 2

Procedures

- ◆ Labor dispute mediation: Please refer to the flow chart.
- ◆ Litigation procedures
 1. It is required to present necessary facts and evidence voluntarily or when asked by the court.
 2. If proceedings are sought after an unsuccessful mediation, the judge responsible for the mediation shall review the case based on the facts and evidence presented in the process of labor dispute mediation.
 3. If it is necessary for a worker to present documents provided by an employer as evidence (such as wage lists, attendance records), a request can be submitted to the court to require the employer to provide such documents.

Step 3

Concluding Procedures

- ◆ Labor dispute mediation: Please refer to the flow chart.
- ◆ Litigation procedures
 1. Settlement or successful referral for mediation.
 2. Judgement.



Note:

- ① If the application is for mediation concerning property rights, the application fee is as follows:

Claim amount	< NT\$100,000	≥NT\$100,000 and < NT\$1 million	≥NT\$1 million and < NT\$5 million	≥NT\$5 million and < NT\$10 million	≥NT\$10 million
Application fee	Free	NT\$1,000	NT\$2,000	NT\$3,000	NT\$5,000

The application fee is waived if the application is for mediation not concerning property rights.

- ② If proceedings are sought after an unsuccessful mediation for a labor dispute, the payable court fee may be deducted with the application fee already paid for the mediation application.



Mediation Process

Procedures

@ Labor events and disputes

Examples: civil disputes such as dismissal, employment discrimination, occupational hazard, unpaid wages, pensions or severance payment.



@ Application for labor dispute mediation

- ◆ Application is submitted to the labor court of a district court.
- ◆ An application fee is required for the application.



@ Procedures on the labor dispute mediation day

- ◆ A labor dispute mediation committee is formed consisting of one judge and two labor dispute mediation committee members (one from the Labor Affairs Division and one from General Affairs Division).
- ◆ Statements are heard and points of contention are summarized. Investigation of evidence is conducted when necessary. Explanations are provided in a timely manner regarding the potential outcome of the litigation.
- ◆ Both parties are brought to an agreed solution.



@ Results



Mediation established

- ◆ Both parties reach to an agreed solution.
- ◆ Alternatively, the labor dispute mediation committee is authorized by both parties to come up with mediation terms and conditions.
- ◆ Alternatively, the labor dispute mediation committee exercises its authority and duty by coming up with a proposal to resolve the dispute and both parties agree to the proposal.



Dispute resolved

The mediation is legally binding as a confirmed judgement.

Mediation is unsuccessful

- ◆ The labor dispute mediation committee considers the following circumstances as an unsuccessful mediation:
 1. Labor dispute mediation works against a rapid resolution to the dispute.
 2. The labor dispute mediation committee is unable to come up with an appropriate proposal according to its authority and duty.
- ◆ If one party opposes to the proposal by the labor dispute mediation committee acting on its authority and duty to resolve the dispute.

The applicant for labor dispute mediation is against continuation of proceedings.

The applicant for labor dispute mediation is not against continuation of proceedings.

The court proceeds to conclude the case.

The case is brought to proceedings:

- ◆ To be reviewed by the same judge responsible for the mediation.
- ◆ Based on the facts and evidence presented during the labor dispute mediation process.

Concluding Procedures