

THE TRADE DISPUTES PANEL

SICCI Information Session.

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Heritage Park Hotel

WHAT IS TRADE DISPUTE PANEL?

- A body established to assist to amicably solve a dispute among workers or between employers and workers that is connected with the terms or conditions of their employment without having to go through the formal courts.
- It is an informal court

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- It is a labour dispute mechanism of the Ministry of Commerce, Industries, Labour and Immigration (MCILI)
- A form of Alternate Dispute Resolution (ADR).

VISION

- To be an active partner in the settlement of industrial disputes between employers and employees.

MISSION

- To enhance and effectively engage in the settlement of industrial disputes between employers and employees
- To effectively dispose disputes with the available resources at hand
- To efficiently implement the policies of the government of the day entrusted on the office through the ministry

ROLES
AND
FUNCTIONS
OF
TDP

ROLES

- A form of Alternate Dispute Resolution (ADR)
- Make binding awards where negotiation fails
(see enactment provision of the TDP Act)
- To facilitate or encourage amicable settlement of trade disputes (conciliation)

ROLES Cont..

- To facilitate or encourage amicable settlement of trade disputes (conciliation)
- Arbitration (a process similar to the courts)
- Can only be resorted to where settlement cannot be reached through the process of conciliation

CORE FUNCTIONS

- Conciliate and arbitrate on Trade Disputes
- Conciliate and arbitrate on Unfair dismissal claims
- Review Trade Disputes Panel

Composition of the Trade Disputes Panel

- Consists of Chairman (or the Deputy Chairman), one employer representative and one employee representative
- Currently, there are eight Panel members altogether, 4 representing employers and other 4 representing employees
- At one sitting only one from each side will sit with the Chairman or his Deputy

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- Panel members are appointed by the Minister of Commerce, Industry, Labour & Immigrations
- Term of appointment is two years and can be renewed if recommended by nominating body
- Chairman and his Deputy are both Lawyers and are appointed by the Judicial and Legal Service Commission
- Panel deals mainly with two types of cases: Trade Disputes and Unfair Dismissal cases.

Trade Disputes

- Definition: A dispute between employees and employers, or between groups of employees, which is connected with one or more of the following matters-
 - terms and conditions of employment of the physical conditions in which employees are required to work
 - Engagement of non-engagement, or termination or suspension of employment or the duties of employment, or one or more employees
 - Allocation of work as between employees or group of employees;
 - Matters of discipline;
 - Membership or non-membership of Trade Union
 - Machinery for negotiation or consultation, and other procedures relating to any of the matters mentioned above including recognition of an employer.

Trade Disputes Cont.

- Where a dispute exists between the employer and the employees, either party can refer the matter to the TDP pursuant to section 4 of the TD Act, Cap 75

Unfair Dismissal cases

- Majority of cases dealt with by the Panel are Unfair Dismissal cases
- Panel determines whether the complainant's dismissal was fair or unfair
- Where Panel finds that the dismissal was unfair, it recommends re-instatement or awards compensation

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- Amount of compensation is such amount that is fair and reasonable in all the circumstances (s.7(1)TDA)
- Amount not to exceed 52 x BW, where “BW” is the basic weekly wage of the complainant.

Conclusion

- Tribunal established by the TDA
- Prime function is to facilitate or encourage amicable settlement of trade disputes between employers and employees
- Strictly it is not a court of law, thus cannot enforce its own decisions except through the courts
- Has power to adopt its own procedures as long as those procedures are not inconsistent with the rules of natural justice.

Relevant Legislations

- Employment Act (Cap 72)
- Unfair Dismissal Act (cap 77)
- Labour Act (cap 73)
- Safety at Work Act (cap 74)
- Workmen's Compensation Act (cap 78)
- Trade Union Act (cap 76)

THANK YOU!!

QUESTION
TIME..