



HR Costly Mistakes

Satisfaction Guaranteed

- It is common to engage senior employees with fixed term contract and provide an enhanced termination payment "*on satisfactorily completing the contract*".
- The senior employee's performance was poor, the company decided not to renew the contract and refused to pay bonus due to poor performance.
- The senior employee appealed because he had completed the term.

Result: The company had to pay full amount of bonus as written on the contract.

Why??

The problem is in the detail!

- What does "satisfactory" mean?
- Evidence of poor performance necessary? Or just the fact that the term finished?
- Preferable alternative wording?

Discretionary Bonus

- Employees will get the discretionary bonus in the end of year which is written on the employment contract.
- Since the business was not doing well, the company decided not to pay bonus to some employees due to their performance.

Result: An employee disputed and finally the company lost the case.

Tips

- “Discretionary” itself doesn’t mean company has the choice not to pay.
- Consider at outset all scenarios i.e. articulating right not to make payment, under what circumstances etc.

Incentive Plans

- Company wants to make deduction from employee's wage to enable participation in share incentive plans.

Result: It is prohibited under the Employment Ordinance. Employee consent is irrelevant.

Tips

Require employees to agree on different remuneration package.

Notice Period

- The staff resigned from the position and give 7 days notice when August 8th should be the last day.
- The staff took 7 days annual leave from August 2nd to 8th.
- The staff claimed that he could enjoy 1 rest day (9th) in every period of seven days, so he should get the salary on 9th.

Result: No need to pay the salary on 9th.

Tips

1. Staff should be entitled to payment in lieu of untaken annual leave, irrespective of the reasons of termination.
2. If there is a proof (better in written) that the staff has served enough notice period, the last day of this case should be 8th.

Salary Review

- HR announced the total % of salary increase
- One department increase more than others

Result: Some staff in other departments knew this and many submitted resignation.

Tips

1. All HR practices should be fair and keep the internal equality
2. Confidentiality is the issue of this company.



Thank You

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