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THE ESSENCE AND FEATURES OF SELF-PROTECTION OF LABOR RIGHTS

***Abstract:** within the framework of this article, one of the ways to protect the rights of employees is considered, namely self-defense. The author analyzes statistical data indicating the level of prevalence of the studied method of protecting violated rights. This article also distinguishes between the concepts of self-defense and strikes as ways to restore workers' freedoms guaranteed by labor legislation. In conclusion, the article presents the conclusions of the study.*

***Keywords:** self-defense, labor legislation, labor relations, labor law, strike.*

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СУЩНОСТЬ И ОСОБЕННОСТИ САМОЗАЩИТЫ ТРУДОВЫХ ПРАВ

Аннотация: в рамках настоящей статьи рассматривается один из способов защиты прав работников, а именно – самозащита. Автором анализируются статистические данные, свидетельствующие об уровне распространенности исследуемого метода защиты нарушенных прав. Также в данной статье разграничиваются понятия самозащиты и забастовки, как способов восстановления гарантированных трудовым законодательством свобод работников. В заключении статьи представлены выводы по результатам исследования.

Ключевые слова: самозащита, трудовое законодательство, трудовые правоотношения, трудовое право, забастовка.

Self-defense as an extra-judicial method of protecting labor rights appeared within the framework of an element of the domestic legal system during the reign of Peter the Great and already at that time was in quite high demand, since the payment of judicial taxes was unaffordable for most workers in factories, and it was sometimes vital to protect labor rights and challenge illegal decisions of production owners.

Today, self-defense is a common phenomenon and is regulated by the Labor Code of the Russian Federation, namely Article 379, upon consideration of which it can be concluded that the legislator identifies the only way to independently protect one's rights - this is the refusal to fulfill labor obligations in connection with the violation of the employee's right by the employer [1].

Since the concept of «self-defense» has not been enshrined at the legislative level, discussions related to the definition of this method often arise in the circles of legal scholars.

For a full understanding of self-defense as a way to protect labor rights, it is necessary to define the legal category in question.

As A.A. notes, Andreev: «self-defense is an independent legal activity of the employee, especially emphasizing that self-defense is carried out exclusively by the employee himself, and the employee is an independent subject endowed with the authority to protect labor rights» [2, p. 214].

We agree with the author's opinion and note that self-defense is a fairly popular and effective way to resolve existing contradictions and abuses by employers of their rights in relation to the employee. Self-defense also allows the above-mentioned persons to refuse litigation on the dispute that has arisen and resolve the situation peacefully.

Let us turn to the statistical data contained in the document of the Ministry of Labor of the Russian Federation, according to the provisions of which the number of injuries in 2023 decreased by 9%, which indicates a real need for employees to protect their rights independently directly within the organization and institution [3].

Self-defense as a way to protect labor rights has the following characteristic features:

- the employee's actions to protect violated rights comply with the provisions of the Labor Code of the Russian Federation;
- the employee has the right to refuse to perform work that does not meet the requirements of the law or contract;
- self-defense has the goal of restoring lost or violated rights exclusively of the employee;
- self-defense is the right of the employee and the obligation of the employer to carry out the necessary measures in connection with the contradictions that have arisen.

When considering the issue of self-defense of labor rights, an important aspect is also the distinction between the concepts of «self-defense» and «strike», which are not identical, however, when studying these legal categories, misunderstandings and incorrect interpretations often occur.

Thus, a strike is a collective refusal to work as a way to protect one's own rights [4]. It should be noted that a strike does not have a procedural formalization, but is only expressed in action or inaction, unlike self-defense, which involves a written refusal to perform labor functions by a specific employee, and not a group.

Another feature of self-defense is the preparation of complaints, petitions or claims, which must contain a specific indication of the contradiction that has arisen, confirmed by facts of abuse of the employer's rights with a mandatory reference to the Labor Code of the Russian Federation.

As for the use of self-defense by employees, this method is far from the most common and is significantly inferior to judicial protection, but it has a number of advantages:

- the process takes place in a less tense environment;
- the employee is exempt from paying state fees;

- the time frame for consideration of the circumstances of the case by the court and the employer differ significantly;

- self-defense allows not only to maintain business relations between the employee and the employer, but also to prevent the aggravation of the conflict in the future.

In our opinion, self-defense is the most reasonable way to resolve contradictions and in order to increase the frequency of using this method of protecting labor rights, it is necessary to inform employees about this right. Based on the analysis of the literature on the subject, we concluded that self-defense of labor rights by employees is an extremely important and necessary aspect of protecting labor rights. Despite the rare use of this right by the employee, it is self-defense that allows the fastest resolution of conflicts between the employee and the employer by filing an application or complaint.

Self-defense as a way to protect the rights of employees has the following characteristics:

- self-defense has the goal of restoring the lost or violated rights of the employee exclusively;

- the employee's actions must comply with the requirements of the Labor Code of the Russian Federation;

- self-defense is possible only in cases of violation of the employee's labor rights;

- the employee is obliged to perform actions exclusively in contact with the employer;

- drawing up complaints, claims and petitions is a necessary element of self-defense.

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