

Complaint – Outdoor & Sports – China

Status: closed

FWF is responsible for setting up a complaints procedure in production countries where FWF is active. The complaints procedure allows third parties to make complaints about the working conditions or the way the Code of Labour Practices is implemented in factories which supply FWF members.

The responsibility of FWF includes investigating the complaint, verifying whether the agreed corrective action plan is implemented and public reporting. This complaint report gives an overview of a complaint filed to FWF, the investigation and agreed corrective action plan as well as how the outcome is verified. For more information on the complaints procedure see the FWF website. FWF also publishes an overview of complaints received in its annual reports.

1. Affiliate involved

Outdoor & Sports Co, Ltd (United Kingdom)

2. Accused party

The complaint was filed against a factory located in China supplying Outdoor & Sports.

3. Date of receiving complaint

The complaint was received by FWF through its local complaints handler in China on 19 March 2014.

4. Filing party

A worker that is currently employed by the factory, details of the identity are known to FWF.

5. The complaint

Three issues were raised by the plaintiff:

1. The worker asked for a one month leave from 17 Jan to 18 Feb 2013 to take care of his ill father. After returning home it became clear his father needed longer care. Therefore, the plaintiff intended to ask for additional personal leave, which was not granted by the factory. The plaintiff subsequently requested his wife to submit his resignation letter.



2. The monthly salary for a worker in his position is 4200 RMB/month. The plaintiff noticed his salary was 100 RMB less in Dec 2013 and Jan 2014. He asked his wife to address this with the management; however, there was no response from the management team on this matter.

3. In the past, the factory deducted 15 RMB/month from each worker as an administration fee. This practice has been cancelled after the FWF audit in October 2013. The plaintiff thought that when he resigned, the factory shall retroactively return the previous deductions (15 RMB/month) to him. The management team responded that they had to discuss this with their head-office before giving a decision; so far the plaintiff did not receive a response.

6. Admissibility

FWF decided that the case is admissible on 24 March 2014.

The factory is an active supplier of Outdoor & Sports, an affiliate of FWF.

The case is relevant to the following labour standards of FWF's Code of Labour Practices:

- Employment is freely chosen
- Payment of a living wage

7. Investigation

FWF informed Outdoor& Sports about the case. Outdoor & Sports immediately contacted the supplier to receive a reply from their side on this case.

FWF asked the complaints handler to investigate how much leave a worker in this case would be entitled to according to local law. Moreover, the complaints handler investigated whether the worker had given a 30 days' notice when he resign from the factory.

The affiliate inquired why his salary was less than before. According to the supplier the worker's wage is based on his performance and the output per peak and low season. His salary was not at fixed rate and therefore can fluctuate over several months.

FWF's Chinese audit supervisor researched the audit report findings from last year with regards to the wage deductions. Indeed a practice was found that each migrant worker is deducted 15 RMB/month as a migrant worker's administration fee, which is submitted to the local government. Per the first of July 2012 this charge has been cancelled by the government, but the factory still deducts 15 RMB from the migrant workers wage. The supplier confirmed this regulation has been cancelled but did not believe it was fair given all the other benefits the factory is providing.

Outdoor & Sports had frequent contact with the supplier to discuss this complaint and what remediation would be needed. The supplier sent a copy of the wage records of the plaintiff for review. Management also indicated to provide workers with a voluntary subsidy of 300RMB per month and felt disappointed this was not mentioned in the complaint.

FWF's complaints handler contacted the plaintiff again to convey the factory's reply.

8. Findings and conclusions

If the resignation was initiated by the worker, the worker is not entitled to severance pay. If he did not give a 30 days' notice the most recent wage can be withheld legally, as the law is fair to both parties. There is no law on how much personal leave is entitled. It is a negotiation between the employer and employees; a clause can be included into in the labour contract; or there is a regulation in the factory rules/manual.

The plaintiff accepted he gave away his rights when he resigned from the factory without the 30 days' notice.

Regarding the wage level, it became clear the worker is not aware of how his wage is calculated; given that he was under the impression his salary was a fixed rate since March 2013.

After reviewing the copy of payments, FWF's complaint handler will contact the worker again to explain the factory's reply and enhance his understanding of how his wage is calculated. The plaintiff indicated that if the factory can reimburse the 15RMB deduction this would be a successful outcome for him.

Regardless of what other allowances or benefits the factory provides, the 15RMB is still an illegal deduction and should therefore be reimbursed.

9. Remediation

Outdoor & Sports has been able to agree with the supplier that the factory reimburses the 15RMB to the worker. The factory will reimburse the 15RMB deduction per month from July 2012 to Mar 2014, in total 20 months, 300 RMB over the coming 2 months.

Outdoor & Sports needs to stress the importance of good communication between workers and management to ensure that workers understand how their wage is calculated. FWF recommends Outdoor & Sports to organise a training as part of FWF's Workplace Education Programme. The learnings from this case is to strengthen workers awareness on the key information of the PRC labour law, especially the contract law to be aware on the rules and rights when resigning and the FWF Code of Labour Practices.

10. Verification

In July 2014 FWF aimed to verify with the complainant whether he had received the payment of 300RMB. However, the telephone number did not work anymore and FWF was not able to contact him through other means. The worker has most likely moved. FWF's complaints handler was able to speak to other workers of the factory through QQ who stated the 15 RMB deduction policy was ceased per March 2014, but the previous deductions were not yet reimbursed to workers.

Outdoor & Sports meanwhile checked the issue again with their supplier. The affiliate received the reply that the 300RMB payment has been made through his wife. The factory indicated the 15 RMB deductions will be reimbursed with a rate of approx. RMB 50 per month and will be fully re-paid by end of 2014.

Outdoor & Sports has scheduled another meeting for October this year where this topic will be on the agenda.



11. Evaluation by the complainant

In case FWF is able to contact the worker again or speak to other workers of the factory, the latest status will be evaluated.