

**PENYELESAIAN PERSELISIHAN PEMUTUSAN HUBUNGAN KERJA
SECARA SEPIHAK DAN TANPA UANG PESANGON
(STUDI PUTUSAN MA NO. 1137 K/PDT.SUS-PHI/2017)**

**Tasya Audina Hidayat
03051170061**

ABSTRAK

Tujuan Penelitian ini adalah untuk mengetahui dan menggambarkan alasan PHK tanpa pemberian uang pesangon menurut Undang-Undang Ketenagakerjaan dan Undang-Undang Cipta Kerja serta penyelesaian perselisihan PHK sepihak oleh pengusaha tanpa pemberian uang pesangon pada Putusan MA No. 1137 K/PDT.SUS-PHI/2017.

Penelitian ini adalah penelitian normatif-terapan, yaitu mengkaji peraturan perundang-undangan tentang alasan PHK sepihak dan implementasinya secara faktual pada peristiwa hukum dalam Putusan MA No. 1137 K/PDT.SUS-PHI/2017. Data yang digunakan adalah data sekunder, bersumber dari peraturan perundang-undangan dan Putusan PHI, serta teori atau pendapat para ahli. Pengumpulan data melalui studi kepustakaan (*library research*) dan studi kasus. Pendekatan penelitian undang-undang (*statue approach*) dan pendekatan kasus (*case approach*). Metode analisis dilakukan secara kualitatif.

Hasil penelitian menunjukkan bahwa alasan-alasan pekerja yang di-PHK tanpa uang pesangon menurut Undang-Undang Ketenagakerjaan dan Undang-Undang Cipta Kerja adalah, Pekerja mengundurkan diri atas kemauan sendiri dan bukan karena kesalahan pekerja ataupun intimidasi pengusaha, pekerja mangkir selama 5 (lima) hari dikualifikasikan mengundurkan diri, dianggap tidak memiliki rasa tanggung jawab dan loyalitas terhadap perusahaan, pekerja pensiun yang iurannya dibayar penuh oleh pengusaha, pengusaha dinyatakan oleh putusan pengadilan tidak melakukan perbuatan pidana atas pengaduan pekerja, pekerja melakukan pelanggaran bersifat mendesak yaitu kesalahan fatal yang diatur dalam PK, PP dan PKB, pekerja ditahan pihak berwajib selama 6 (enam) bulan karena diduga melakukan tindak pidana dan telah dinyatakan bersalah oleh pengadilan, PKWT berakhir. Penyelesaian Perselisihan PHK Sepihak pada Putusan MA No. 1137 K/PDT.SUS-PHI/2017 adalah di PHI tingkat I hingga kasasi melebihi batas waktu yang ditetapkan oleh UU PPHI, disebabkan dikabulkannya eksepsi *obscuur libel*. Alasan PHK tanpa pesangon dalam kasus *aquo* adalah karena pekerja melakukan pelanggaran PKB. Kompensasi akibat PHK adalah uang pesangon, uang penghargaan masa kerja dan uang penggantian hak.

Kata kunci : Pengusaha, Tenaga Kerja, Pemutusan Hubungan Kerja, Perselisihan Hubungan Industrial, Uang Pesangon

**SETTLEMENT OF DISPUTES OF UNIVERSITY TERMINATION OF
EMPLOYEE RELATIONSHIP AND WITHOUT SEVERANCE PAY
(STUDY OF DECISION MA NO. 1137 K/PDT.SUS-PHI/2017)**

**Tasya Audina Hidayat
03051170061**

ABSTRACT

The purpose of this research is to identify and describe the reasons for layoffs without severance pay according to the Manpower Act and the Job Creation Act as well as the settlement of unilateral dismissal disputes by employers without severance pay in Supreme Court Decision No. 1137 K/PDT.SUS-PHI/2017.

This research is a normative-applied research, which examines the laws and regulations regarding the reasons for unilateral layoffs and their factual implementation on legal events in Supreme Court Decision No. 1137 K/PDT.SUS-PHI/2017. The data used are secondary data, sourced from the laws and regulations and the decisions of the Courts of Industrial Relations (PHI), as well as theories or opinions of experts. Collecting data through library research and case studies. Legal research approach and case approach. The method of analysis was carried out qualitatively.

The results show that the reasons for workers being laid off without severance pay according to the Manpower Act and the Job Creation Act are, the worker resigns of his own accord and not because of the worker's fault or intimidation by the employer, the worker is absent for 5 (five) the day the employer is qualified to resign, is considered to have no sense of responsibility and loyalty to the company, retired workers whose contributions are fully paid by the entrepreneur, the entrepreneur is declared by a court decision not to have committed a criminal act against the worker's complaint, the worker commits an urgent violation, namely a fatal error as regulated in the PK (employee agreement), PP (company regulations) and PKB (collective labor agreement), workers are detained by the authorities for 6 (six) months because they are suspected of committing a crime and have been found guilty by the court, the PKWT ends. Dispute Settlement of Unilateral Layoffs on Supreme Court Decision No. 1137 K/PDT.SUS-PHI/2017 is at PHI level I until the cassation exceeds the time limit set by the PPHI Law, due to the obscure libel exception being granted. The reason for layoffs without severance pay in the aquo case is because the workers violated the CLA. Compensation due to layoffs is severance pay, gratuity for years of service and compensation for entitlements.

Keywords : *Employers, Labor, Termination of Employment, Industrial Relations Disputes, Severance Pay*