

Collective Bargaining at the Shenzhen Citizen Watch Factory

Nearly 1,000 workers at the Astar Precision Watch factory (a subsidiary of the Citizen Watch Corporation) in Shenzhen began a two-week strike on 17 October 2011. The strike, prompted by management's failure to satisfy employee demands, impacted both parties, as well as society, and was reported in many media outlets. By the beginning of November, it appeared to outsiders that the workers had returned to work, and the media reported that Astar had resolved the issue. However, according to workers, the dispute's most important issue (the payment of overtime for the 40-minute break each workday, dating back to the years between 2005 and 2010) had not been satisfactorily resolved. Workers still had many grievances, and productivity dropped to around 30 percent of normal. The possibility of another conflict was tangible.

Having previously consulted the Guangdong Laowei law firm during the strike, the Astar workers knew of its expertise in collective bargaining. They sought its guidance again. On 6 November ten worker representatives from Astar's factory arrived at the law firm, bringing with them 584 signatures from other workers, seeking Laowei's support and possible intervention in the dispute. Laowei suggested that the most effective method was to continue negotiations with management, which would restore order much more quickly, and also lower the net cost for the factory, the courts, and society. That day, the worker representatives went back to their co-workers with the recommendation that they retain Laowei's legal services. The following day, Laowei notified the Shenzhen Lawyer's Association and Shenzhen Justice Bureau that it had been retained by Astar workers.

On **8 November**, the Astar workers formally refused the "bonus" that had been offered on 27 October and demanded that management renew negotiations regarding the dispute. The same afternoon, local government and judicial organizations from Shenzhen's Shajing district suddenly set up a legal consultation room within the factory, offering legal services to the workers.

On **9 November**, a Laowei delegation headed by the firm's director Duan Yi, delivered a formal request to Astar management to restart negotiations as soon as possible with worker representatives; to conduct collective bargaining talks in accordance with the *Shenzhen Special Economic Zone Regulations on the Promotion of Harmonious Employment Relationships*, and to contact Laowei to make arrangements for the time and location of the discussions. The worker representatives, the Shenzhen Lawyers Association, and Shenzhen Justice Bureau were also simultaneously notified of the request.

On **10 November**, lawyers for the factory telephoned Laowei to acknowledge receipt of the request and expressed the hope that matters could be discussed in person soon. The factory lawyers also informed Laowei of the concerns of management that the workers should not take any extreme action prior to the initiation of, or during the talks. Both sides agreed to start preliminary discussions on 14 November. However, after talking to worker representatives that night, preliminary discussions were moved ahead to the afternoon of

the 11th. The worker representatives argued that if talks did not start until the following week, it would not help mollify the feelings of the workers, and the possibility of another strike would be high.

On the afternoon of **11 November**, both parties met at the Astar factory for preliminary discussions on how the collective bargaining talks should proceed in an orderly fashion. The labour lawyers, factory lawyers, and factory management participated, with all the worker representatives attending as observers. The parties discussed and agreed on the number of individuals and composition of each side to the talks, as well as issues relating to individuals allowed to listen in on the talks, how to allocate time for breaks, third party participation, and other rules to be followed. Both parties agreed to begin formal talks on 13 November.

On the afternoon of **November 13**, the first round of collective bargaining talks began. Both sides had five representatives, with 12 worker representatives in attendance as observers. Management agreed that the time spent participating in the talks would be considered as part of the worker representatives' on-duty work. In addition, management provided a place for the labour representatives to discuss amongst themselves. The parties primarily spent their time debating the key issue – whether or not the 40 minutes rest break provided each day was legally regarded as paid work time. This issue generated intense debate, and the parties were unable to reach an agreement. Perhaps it was because of a lack of understanding of the law, or a difference in cultural backgrounds, but the Japanese management and their lawyers vehemently insisted that treating the 40 minutes as work time had no basis in law. Even when the labour representatives provided management representatives with the local labour bureau's explanation of the law on this issue, management still insisted that that explanation did not apply in Astar's case.

Management did make an offer during the first round of talks, but it was rejected by the labour representatives who argued that it would probably agitate the workers even further. Realizing the gravity of the issue, management immediately withdrew the offer. The talks continued until 11.00 pm. without result. As the first round concluded, management asked the representatives not to disclose the withdrawn offer, as they feared it would sow resentment and dissatisfaction amongst the workers.

On **14 November**, some Astar workers refused to do overtime in protest at the lack of progress during the talks. Management was extremely upset over this, since they believed the workers had promised not to strike for the entire duration of the collective bargaining process. The labour lawyers and worker representatives that day made strenuous efforts to assuage the workers and persuade them to work normally, in order to ensure that the talks would have a better chance of success. The following day, employees returned to work as normal, which reassured the management.

The second round of collective bargaining talks started, as previously arranged, on the afternoon of **16 November**. Management still insisted that there was no basis in law for treating the 40 minutes rest period as overtime, but agreed to use an overtime standard as

the basis for calculating the compensation they would offer. The worker representatives started by stating frankly:

Our capacity as worker representatives will probably conclude tonight. If we don't reach a satisfactory result tonight, one that is not lower than the workers' bottom line, we will not be able to control what happens next. It won't be because we don't want to be their representatives anymore, but it will be because they don't want us to be their representatives anymore.

After five and a half hours of deliberation, which included two recesses, management weighed the pros and cons, including the difficulties that might result from the representatives no longer taking part in the bargaining, and made their final offer: A settlement of 70 percent of the overtime pay would be offered for the 40 minutes per day that employees worked from 1 October 2005 through 31 October 2010, based on each worker's salary and actual time worked. The settlement would be paid out starting in November 2011, and would be paid in five monthly instalments. The settlement would cover not only the 584 workers formally represented in the talks but the entire workforce of around 1,000 employees. Management also promised that workers who planned to leave the factory soon would get the full settlement on a month by month basis. The representatives accepted this offer.

Both parties agreed that Laowei would be responsible for collecting signatures from all the factory workers to approve the agreement. The worker representatives promised to urge all departments to put additional effort into their work, to try to recuperate, as much as possible, the losses sustained by the factory during the dispute.

On **17 November**, management publicly announced the agreement reached in the collective bargaining talks, and attained unanimous consent from all the workers. From then on, the Astar factory returned to 100 percent productivity.

On the morning of **19 November**, both management and labour met to confirm and sign the minutes of the two collective bargaining sessions. At the same time, the labour lawyers completed their task of obtaining signatures of assent from all the workers. While the Laowei attorneys were at the factory, they were warmly greeted and thanked by the workers. Laowei also received a formal letter of thanks from workers' representatives on 21 November.

Postscript

The cooperation between Astar management and labour did not stop after the collective bargaining discussions. In order to further broaden communication between management and labour, and reduce excessive bureaucracy and middlemen that could delay responses or neglect worker complaints, senior managers at Astar established a "Labour and Management Coordination Committee" at the end of November. The purpose was to set up a permanent platform for management and labour to discuss day-to-day issues, and to

address worker complaints in a timely manner. The chairman of Astar appointed Tang Duanfeng, an active participant in the collective bargaining discussions, as the worker representative on the committee.

The Labour and Management Coordination Committee has reportedly already held two meetings, and addressed many issues, including another major issue in the strike – having employees work on the weekend without overtime pay and not scheduling an alternate rest day promptly afterwards. Management promised that, if alternate rest days were not scheduled within one month, overtime will be paid for the extra days worked.

On Sunday 4 December, Astar management treated the entire workforce to a dinner banquet at a four star hotel in Shenzhen, with around 100 tables and 1,000 yuan spent for each table. Management used the banquet in part to thank the workers for their hard work in ensuring that production quotas were met, and in part to promote better labour relations, creating a better workplace atmosphere.