



The Validity of An Approved Leave Warning Letter: A Basic Examination of Legal Certainty in Employment Relations

Rafi Farizki¹, Rani Santika²

Sekolah Tinggi Manajemen Informatika dan Komputer LIKMI, Indonesia¹

Universitas Muhammadiyah Prof DR Hamka, Indonesia²

E-mail: rafifarizki90@gmail.com^{1*}, rsantika851@gmail.com²

Keywords:	ABSTRACT
employment relationship; legal certainty; legitimate expectation; religious leave; warning letter	Indonesian labour law treats the warning letter as a procedural step toward termination of employment under Article 154A paragraph (1) letter k of the Job Creation Law, yet the substantive requirements for its validity remain undefined. The problem becomes acute when a worker receives a disciplinary warning letter after taking religious leave that the employer had already approved, on grounds that no written rule regulates. This study aims to determine the validity requirements of a warning letter, the legal position of an approved leave, and the legal consequences of a warning letter issued for such leave. It applies normative legal research with statute, conceptual, and case approaches, examining Law Number 13 of 2003, Law Number 6 of 2023, Government Regulation Number 35 of 2021, Law Number 2 of 2004, and four industrial relations decisions retrieved from the Supreme Court Decision Directory, analysed qualitatively and prescriptively. The findings identify five cumulative validity requirements: a written normative basis, a concrete act meeting that norm, clarity of content, timeliness, and compliance with the time and level regime. Leave approval creates a legitimate expectation, reinforced for religious leave by Article 80 of the Manpower Law. Within this doctrinal framework, a warning letter lacking any violated norm is substantively defective, should not count as a step toward termination, and may be challenged through the rights dispute mechanism. The study contributes an operational validity test for courts, mediators, and employers, and recommends that implementing regulations codify these requirements.

INTRODUCTION

Disciplinary power in employment is regulated far beyond Indonesia. At the international level, ILO Termination of Employment Convention No. 158 of 1982 requires a valid reason connected with the capacity or conduct of the worker before employment is terminated, excludes religion from the reasons that may justify termination, and is accompanied by Recommendation No. 166, which expects termination for misconduct to be preceded by an appropriate written warning (ILO, 1982). Comparative research shows that even states that have not ratified the Convention use its standards as a benchmark for shaping national dismissal protection (Sychenko et al., 2019).

Indonesia has not ratified Convention No. 158, yet its labour law follows the same logic through a staged warning letter system that functions as a filter before termination. The practical weight of that filter is considerable. Data from the Ministry of Manpower record more than 10,000 industrial relations disputes in 2023, of which 7,275 concerned termination of employment and 2,554 concerned rights disputes, while 7,540 disputes were reported in 2024, including 5,192 termination disputes and 2,033 rights disputes (Ketenagakerjaan, 2025). Because termination on disciplinary grounds normally begins with a warning letter, the legal quality of that letter is a recurring source of conflict rather than a marginal administrative matter, and this general problem frames the specific issue examined in this article.

Employment relationships are essentially subordinate relationships. The element of command inherent in the definition of employment relations places the employer in a leading position and the worker in a subordinate position, and from that hierarchy arises the authority of the employer to enforce discipline in his work environment (Agusmidah, 2010; Asyhadie, 2007). The most common instrument of discipline enforcement is a warning letter. In everyday practice, a warning letter is often seen as an ordinary administrative matter, just a written reprimand that stops by the worker's desk. Such a view is legally inaccurate.

Since the regime of the Job Creation Law, warning letters occupy a much more serious juridical position: Article 154A paragraph (1) letter k of Law Number 6 of 2023 stipulates that termination of employment can be carried out against workers who violate the provisions of employment agreements, company regulations, or collective bargaining agreements after they have been given the first, second, and the third warning letters consecutively, each lasting for a maximum of six months (Natanael et al., 2024). A warning letter is thus a step towards termination of employment. Each letter of warning that was issued moves the worker one step closer to termination, and the validity of each letter is therefore a legal question that directly affects the worker's employment security.

The formulation of Article 154A paragraph (1) letter k itself actually contains the most basic conditions of validity: a warning letter is issued for violation of the provisions stipulated in the employment agreement, company regulations, or collective bargaining agreement. This phrase means that a warning letter is not a statement of the employer's dislike stated on letterhead, but a conditional legal action: there must be a written norm, there must be a real act that violates that norm, and both must be demonstrable. Without these three, the warning letter loses its juridical footing, no matter how official it may be (Saebani, 2021).

On the other side of the balance stand the workers' rights to leave and to the opportunity to worship. Article 79 of Law Number 13 of 2003 concerning Manpower as amended by Article 81 number 25 of the Job Creation Law requires employers to provide rest and leave, with annual leave of at least twelve working days (Suhartini, 2020). This statutory framework remains in force pending the new standalone Manpower Law that the Constitutional Court, in Decision Number 168/PUU-XXI/2023, ordered lawmakers to enact. More specifically, Article 80 of the Manpower Law requires employers to provide adequate opportunities to workers to carry out worship required by their religion.

Both provisions affirm that leave is not the generosity of the employer but a normative right, and that the dimension of worship in leave receives its own protection whose violation is subject to criminal sanctions under Article 185 of the Manpower Law as amended by the Job Creation Law. The provisions of Article 80 have not been amended or deleted by the Job Creation Law, so they remain fully in force (Basofi & Fatmawati, 2023). When the worker applies for leave and the employer agrees to it, there is a confluence of two legal actions: the exercise of rights by the worker and the granting of permission by the authority holder. The approval is not a mere administrative formality; it creates a legal situation from which the worker has the right to draw the belief that his absence during the leave period is a valid absence and will not be questioned at a later date.

The problem arises when the trust is betrayed. The pattern examined in this article is a constructed doctrinal illustration rather than a single adjudicated case, and it runs as follows: workers apply for leave to carry out worship, for example, Umrah, the application is approved,

leave is undertaken, the worker returns to work, and the employer then responds to the completed leave by issuing a warning letter. The reason used is not a violation of written norms but something that is not regulated anywhere, for example, the worker is considered not to detail the purpose of his leave in detail at the time of submission. It is not uncommon for such warning letters to contain disciplinary qualifications, a label that characterises the worker as undisciplined, even though the person concerned has gone through all available licensing procedures.

This pattern contains double irregularities. In terms of momentum, an objection to the completeness of the leave application should be submitted at the time the application is examined, because at that point the employer holds full authority to refuse or request completeness; questioning it after the permit and leave have been completed means withdrawing the legal consequences of the consent that has been given by oneself. In terms of substance, no norm is violated: what is used as the basis of the reprimand is an obligation that never exists.

The analytical framework used to examine this pattern is the principle of legal certainty. In Radbruch's teachings, legal certainty is one of the three basic values of law in addition to justice and utility, and certainty requires that the law be known, clearly formulated, and consistently applied, so that everyone can regulate his or her behavior safely (Julyano & Sulistyawan, 2019; Mertokusumo, 2010; Sutedi, 2009). Legal certainty in employment relations contains two demands at once: clarity of norms, meaning that workers can only be punished for violations of written rules that they can know in advance, and consistency of actions, meaning that the holder of authority must not turn against his own legal actions that have caused trust in other parties. A warning letter for the approved leave contravenes both demands at once, and therefore the pattern is not just a bad management practice but a question of juridical validity (Pulungan, 2023).

The Indonesian labor law literature has not provided adequate answers to this problem. Studies on warning letters generally place them as part of the termination procedure, namely examining whether or not the termination of employment is valid because it has or has not been preceded by the first to third warning letters (Natanael et al., 2024; Timothy et al., 2024). Studies on leave in general examine changes in the regulation of leave rights after the Job Creation Law and its implications for worker protection (Panggaribuan & Manurung, 2025). The two currents run their own way: the first stops at the existence of a warning letter without testing the validity of its substance, the second stops at the content of the right to leave without tracing the fate of the workers who were actually punished after exercising that right.

International scholarship on the Job Creation Law has likewise concentrated on its deregulatory character and its relationship with Constitutional Court rulings rather than on internal disciplinary instruments (Mahy, 2022), while Indonesian studies on legitimate expectations remain confined to administrative court practice (Fahlevi et al., 2023). The meeting point, namely the validity of the warning letter issued for the use of the right to leave that has been approved, let alone leave for worship that receives special protection under Article 80, has, to the best of the authors' search of national journal portals and the Supreme Court Decision Directory, not yet been examined as a distinct issue; this claim is stated cautiously and is limited to the sources reviewed.

The novelty of this research lies in three things: first, the formulation of the conditions for the substantive validity of the warning letter which has been hidden behind the formulation of Article 154A paragraph (1) letter k; second, the withdrawal of the concept of legitimate expectations, which has been developing in the realm of administrative law, into employment relations to explain the legal consequences of leave approval; Third, the placement of religious leave as a category of leave with layered protection which makes its denial even more difficult to allow. Based on the description above, this study proposes three problem formulations. First, what are the requirements for the validity of a warning letter in the Indonesian labor law regime. Second, what is the legal position of the approval of leave, especially leave to carry out worship, and its legal consequences for the employer's authority to issue a warning letter for the leave.

Third, what are the legal consequences of the warning letter issued for the approved leave and the legal remedies available to workers. This research is a normative legal research with a legislative, conceptual, and case approach, using primary legal materials in the form of labor laws and relevant court decisions, as well as secondary legal materials in the form of doctrine and scientific articles (Marzuki, 2014). The discussion was arranged following the three problem formulations, and closed with conclusions and recommendations for workers, entrepreneurs, and regulators.

The urgency of this study lies in the convergence of three developments: warning letters now operate as a statutory step toward termination, the Job Creation Law has left much of the detail of leave to company regulations, and termination disputes dominate the industrial relations caseload. Theoretically, the study benefits labour law scholarship by articulating substantive validity requirements for warning letters and by testing whether the doctrine of legitimate expectations can be carried over from administrative law into private employment relations.

Practically, it gives workers a basis for documenting and contesting sanctions that have no normative basis, gives employers a checklist for issuing defensible warning letters, and gives mediators and industrial relations judges an operational test. For regulators, the implication is that the conditions for a valid warning letter can be codified in implementing regulations without restricting legitimate managerial discipline. The objectives of the study therefore follow directly from the three problem formulations above.

RESEARCH METHOD

This research is a normative legal research, which is a research that examines law as a system of norms to answer legal issues raised through prescriptive reasoning (Marzuki, 2014; Soekanto and Mamudji, 2015). The choice of this type of research is based on the character of the problem being studied: the validity of the warning letter for leave that has been approved is basically a matter of the link of norms, namely how the provisions regarding the warning letter in Article 154A paragraph (1) letter k of the Job Creation Law must be read in front of the provisions of the right to leave in Article 79 and the right to carry out worship in Article 80 of the Manpower Law, and with the principle of legal certainty as a fundamental principle that overshadows both.

Three approaches are used in layers. First, the statute approach, by examining all relevant provisions regarding warning letters, leave, worship, and termination of employment in Law

Number 13 of 2003 concerning Manpower, Law Number 6 of 2023 concerning the Determination of the Job Creation Perppu into Law, Government Regulation Number 35 of 2021, and Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes. Second, a conceptual approach, by building an analytical framework from the concept of the principle of legal certainty, the concept of normative rights of workers, and the concept of legitimate expectations drawn from the development of administrative law doctrine into labor relations.

Third, the case approach, by examining industrial relations court decisions and cassation decisions that question the validity of warning letters, to find the ratio decidendi regarding when the warning letter is considered valid or invalid by the court. The three approaches are integrated rather than applied separately: the statute approach supplies the norms under examination, the conceptual approach supplies the evaluative standards (legal certainty, normative rights, and legitimate expectations), and the case approach tests whether the courts apply those standards when they assess warning letters.

The legal material used consists of three layers. Primary legal materials include the aforementioned laws and regulations along with relevant court decisions. Secondary legal materials include books, journal articles, and research results in the field of employment law and legal theory. Tertiary legal materials include legal dictionaries and encyclopedias to the extent necessary to confirm the meaning of the term. All materials are collected through literature studies. Because this is doctrinal research, it has no field location, human research subjects, or questionnaire instrument; its objects are legal norms and judicial decisions, and its instrument is a document analysis sheet that records, for each decision, the norm applied, the material facts, the ratio decidendi, and the outcome.

Especially for court decisions, the collection is carried out through a search of the Supreme Court Decision Directory with keywords related to warning letters, leave, and rights disputes. Court decisions were collected from the Supreme Court Decision Directory and the Supreme Court legal documentation portal. Only the verdict that has been read in its entirety from the official copy is cited in this study; The decision number is not quoted from a second source without an examination of the original document. This protocol is taken to maintain the accuracy of the jurisprudence reference which is one of the cornerstones of the analysis.

The search used the Indonesian keywords "surat peringatan", "surat peringatan tidak sah", "cuti", "cuti ibadah", and "perselisihan hak", limited to the industrial relations classification and to decisions issued between 2014 and 2025. Decisions were included when the court expressly assessed the validity, content, or legal effect of a warning letter, and excluded when a warning letter appeared only as background to a termination on other grounds. Four decisions that represent the main lines of judicial reasoning were selected for full analysis (Table 2); the screening log recording the number of decisions retrieved for each keyword is available from the authors on request.

The analysis was carried out in a qualitative prescriptive manner. Regarding the formulation of the first problem, the analysis moves deductively from the formulation of norms to the formulation of the conditions for the validity of the warning letter. Regarding the formulation of the second problem, the analysis links the provisions of the right to leave and the right to worship with the concept of legitimate expectations to determine the legal position of leave approval. Regarding the formulation of the third problem, the results of the second

analysis are combined with a synthesis of the selected decisions to formulate the legal consequences of the defective warning letter along with the legal remedies available to workers.

RESULTS AND DISCUSSION

Requirements for the Validity of Warning Letters in the Employment Law Regime

The starting point for formulating the requirements for the validity of the warning letter is its position in the architecture of Article 154A paragraph (1) letter k of the Job Creation Law. The provision provides a warning letter of dual functions: internally, it is a corrective instrument that gives workers the opportunity to improve themselves; externally, it is a procedural prerequisite that must be passed before termination of employment on the grounds that violations can be committed (Natanael et al., 2024). That dual function carries important consequences: since a warning letter is part of a series of actions that can lead to the loss of a job, it is subject to the same serious demands of validity as the termination of employment itself. A defective warning letter cannot be treated as a purely internal administrative problem, because it will be transmitted to the entire series of actions built on it.

From the formulation of Article 154A paragraph (1) letter k, at least five conditions of validity can be derived. First, the normative basic requirement: a warning letter can only be issued for a violation of the provisions stipulated in the employment agreement, company regulations, or collective bargaining agreement. The legal phrases here are limiting; It points to three sources of written norms and leaves no room for other sources such as unwritten habits, personal expectations of superiors, or newly formulated standards after the act has occurred. In the law of work discipline, the principle works in harmony with the principle of legality: there is no punishment without rules that precede it.

This reading is consistent with Article 52 paragraph (1) of Government Regulation Number 35 of 2021 and with studies that tie disciplinary termination to norms contained in the employment agreement, company regulation, or collective bargaining agreement (Natanael et al., 2024; Saebani, 2021), and it mirrors the international standard that a disciplinary measure must rest on a valid reason connected with the worker's conduct (Sychenko et al., 2019). Second, the condition of subsuming: there must be concrete acts of workers that meet the formulation of violations in the norm. The match between the act and the formulation of the norm is the essence of the validity check; the label affixed to the warning letter does not specify anything if the act itself does not meet the formula of any violation.

Third, the requirement for clarity of content: the appropriate warning letter must state the act in question, the time it occurred, and the provisions violated, because without that clarity it is impossible for workers to defend themselves or improve themselves, even though coaching is the main function of the warning letter (Saebani, 2021). Fourth, the momentum requirement: a warning letter is issued within the appropriate time after the violation is known, not stored as a card that can be played at any time. Fifth, the time and level regime requirements: each warning letter is valid for a maximum of six months and is issued in stages, unless the employment agreement, company regulations, or collective bargaining agreement stipulate otherwise. The elucidation of Article 52 paragraph (1) of Government Regulation Number 35 of 2021 indicates that such a stipulation may take the form of a first and final warning letter, but it does not dispense with the first four conditions.

These conditions go further than the dominant reading in termination studies, which examines mainly whether the sequence of first, second, and third letters was observed (Timothy et al., 2024); here the substantive basis of each letter is treated as part of its validity rather than as a mere matter of evidence. The five conditions affirm that the authority to issue warning letters is not a free discretion. It is a binding authority that is only valid as long as it moves within the corridor of written norms. The practical consequences can be tested on the qualification that most often appears in practice: the label of indiscipline. The word does not have a stand-alone juridical meaning; it is only valid as the conclusion of a subsumption, that is, after it is shown which written norm is violated and which act violates it. A warning letter that only contains a label without a reference to the norm is a warning letter that concludes without a premise, and therefore does not meet the first to third requirements at once.

Subsection synthesis. In answer to the first research question, a warning letter is valid only when five cumulative conditions are met: a written normative basis, a concrete act that fulfils that norm, clear content, timely issuance, and compliance with the time and level regime. The authority to issue it is a bound authority. This test, which is summarised in Table 1 below, is the first contribution of the study and the yardstick for the analysis in the next two subsections.

Legal Position of Approval of Religious Leave and the Emergence of Legitimate Expectations

The formulation of the second problem demands clarity about what actually happens juridically when the employer approves the leave request. For this reason, it is necessary to first emphasize the position of the rights that are being implemented. Annual leave is a normative right of workers that comes directly from the law, not the generosity of employers (Suhartini, 2020). Moreover, if leave is used to carry out worship, Article 80 of the Manpower Law also works which requires employers to provide adequate opportunities for workers to carry out worship that is required by their religion, a provision that is not touched by the Job Creation Law and therefore remains fully valid.

Against religious leave, there are thus multiple layers of protection: the right to leave and the layer of guarantee of freedom to exercise worship whose roots extend to the constitution (Article 28E paragraph (1) and Article 29 paragraph (2) of the 1945 Constitution). Three legal layers must nevertheless be distinguished. The first is the right to annual leave under Article 79, a fundamental right of workers whose detailed regulation the Job Creation Law has partly shifted to company rules (Pambudi & Najicha, 2022; Panggaribuan & Manurung, 2025).

The second is the employer's obligation under Article 80 to provide adequate opportunity for worship, reinforced by Article 153 paragraph (1) letter c, which prohibits termination because a worker performs worship commanded by religion, and by Article 93 paragraph (2) letter e on wages during such worship. The third, which is the focus of this subsection, is not a statutory right at all but the legal effect of the employer's own act of approval. It is debatable whether Umrah is a compulsory worship within the meaning of Article 80; However, the debate loses its relevance precisely because the mechanism taken by workers is an approved leave mechanism. Regardless of the qualifications of worship, leave that has passed the door of approval is a valid leave.

The leave approval itself is a legal act, not a formality. It is a statement of the will of the authority holder that gives rise to legal consequences: the absence of the worker during the approved period changes the status from a potential violation of the obligation to be present to the exercise of a legitimate right. From this legal action was born what doctrine calls a legitimate expectation (Brown, 2017). This concept thrives in the realm of administrative law, where citizens who obtain decisions or promises from officials have the right to trust that the decision will not be withdrawn at will; Indonesian administrative courts already use this principle as a test for official acts (Fahlevi et al., 2023), and although Law Number 30 of 2014 does not name legitimate expectations as a separate principle, their substance is protected through the general principles of good governance, particularly legal certainty, whose elucidation in Article 10 paragraph (1) letter a includes consistency in every administrative policy.

The withdrawal of this concept into the employment relationship can be theoretically justified, because the position of the employer towards its workers resembles the position of the ruler on a private scale: the employer establishes norms through company regulations, implements them through personnel decisions, and imposes sanctions for violations. Anyone who performs those three functions at once is bound by the same demand of consistency: forbidden to turn against his own legal actions that have instilled confidence in the other party. The transfer nevertheless has limits: an employer is a private party whose authority derives from the employment agreement and statute rather than from public law, so the doctrine is used here as an interpretive aid that gives content to the duty of good faith in Article 1338 paragraph (3) of the Civil Code, not as a directly binding administrative norm.

With that framework, the patterns that are the concern of this research can be completely dissected. In a constructed illustration that synthesises a recurring pattern and does not refer to any identifiable adjudicated case, a worker applies for leave to perform Umrah, the application is approved, leave is undertaken, and the worker falls ill for two days after his return with a notice delivered through official communication channels and accepted without objection. After the entire series is completed, a warning letter with disciplinary qualifications is issued on the grounds that the worker did not specify the purpose of his leave at the time of submission. Tested with the validity condition in the previous sub-chapter, such a warning letter falls on each step. On the normative basic terms: the obligation to specify the purpose of the leave is not known in the law and, in the illustrated pattern, is not regulated in the company's regulations; reprimands are handed down for violations of norms that never existed.

On the subsumption condition: the worker's actions constitute perfect procedural compliance, namely applying for permission, waiting for approval, and notifying of illness; Characterising this sequence of compliance as indiscipline is internally contradictory. In the condition of momentum: objection to the completeness of the submission only has a place at the time the application is examined, because at that point the entrepreneur holds full authority to reject or request completeness; Questioning it after the leave has been completed means withdrawing the legal consequences of the consent that has been given by oneself, exactly the form of inconsistency prohibited by the principle of legal certainty. Absenteeism due to illness also applies to the provision that sick workers are still entitled to their wages (Article 93 paragraph (2) letter a of the Manpower Law, read with Article 40 paragraph (3) letter a of Government Regulation Number 36 of 2021 concerning Wages as amended by Government

Regulation Number 51 of 2023), thus making it the subject of reprimands adds another layer of contradiction with the law.

Table 1. Application of the Five Validity Conditions to the Constructed Illustration

No	Validity condition	Legal basis	Application to the illustration	Result
1	Written normative basis	Art. 154A(1)(k) Law 6/2023; Art. 52(1) GR 35/2021	No provision of the employment agreement, company regulation, or collective agreement requires the purpose of leave to be detailed	Not fulfilled
2	Concrete act meeting the norm (subsumption)	Art. 154A(1)(k) Law 6/2023	The worker applied, waited for approval, took the leave, and reported illness through official channels	Not fulfilled
3	Clarity of content	Principle of legal certainty	The letter uses the label "indisciplinary" without citing a provision, an act, or a time	Not fulfilled
4	Timeliness	Legal certainty; legitimate expectation	The objection was raised only after approval was given and the leave was completed	Not fulfilled
5	Time and level regime	Art. 154A(1)(k) Law 6/2023; Art. 52(1) GR 35/2021	The six month validity and staging may be observed formally, but this cannot cure the absence of conditions 1 to 4	Formally met, not curative

Source: authors' analysis of Article 154A paragraph (1) letter k of Law Number 6 of 2023 and Article 52 of Government Regulation Number 35 of 2021.

The robustness of the above analysis should be tested with the most challenging scenario: what if the leave proposed for worship turns out to be used for other purposes, such as sightseeing between acts of worship. The answer depends on the category of leave used, and on both possibilities this analysis persists. If leave is deducted from the right to annual leave, the purpose of using the leave is legally irrelevant: annual leave is a right that is freely used, the law never requires workers to account for the use of their leave time, so the purpose information on the application form is as information, not a binding promise of use. What's more, the employer's consent to a specific duration itself summarizes the consent to the entire use of that duration.

If the leave uses a specific religious category that provides more benefits beyond the annual right, then the purpose of worship is a condition, and the deviant use can be questioned; But even in this possibility, there are three limitations: commercial Umrah packages commonly bundle worship with visits to historical sites as a single product, the reasonable measure is the dominant purpose rather than absolute purity, and most importantly, the imposition of sanctions still requires the existence of written norms that expressly limit such use. Thus, even the most difficult scenario leads to the same conclusion: it is not the content of the workers' vacation that determines the validity of the warning letter, but whether or not there are norms violated.

Such a pattern does not stand in a vacuum; it is the legal face of the phenomenon that in popular Indonesian personnel management practice is called like and dislike assessment, which is the treatment of workers determined by the likes or dislikes of their superiors, not by objective measures. The performance management literature has long noted this vulnerability:

assessments by superiors are easily influenced by personal relationships, impressions, even the mood of the assessor, and such subjectivity are documented as real obstacles in the employee appraisal system (Saputra & Heliyani, 2024; Sulistiarini & Ismail, 2025).

However, there is an important and often missed line: the law still leaves room for an element of subjective consideration in performance appraisals, because judging always contains judgment; The law does not provide the slightest space for subjectivity in the imposition of disciplinary sanctions, because sanctions are subject to the principle of legality which requires written norms and proven actions. When likes and dislikes migrate from the realm of judgment to the realm of sanctions, it crosses a category boundary: from the realm of debatable discretion to the realm of voidable offenses. A letter of warning for an approved leave, without the norm being violated, is the clearest form of this shift, because when the sanction instrument is used without violation, the only explanation left for its presence is the personal circumstances between the issuer and the recipient.

The analysis becomes complete when one also takes into account the many possibilities behind such a pattern: disciplinary authority is used not for coaching purposes but for other purposes, such as getting rid of subordinates who are seen as competitors or simply venting personal dislikes. The law does not demand proof of the heart; What is required is an objective test of the suitability between the use of authority and the purpose of its grant. The authority to issue warning letters is given for one purpose, which is to encourage workers to return to compliance with norms. The long-known doctrine of abuse of rights in civil law asserts that the right or authority used deviates from the purpose for which it is granted loses its legal protection (Agustina, 2003); In the public sphere, the same idea manifests as the prohibition of abuse of authority in Articles 17 and 18 of Law Number 30 of 2014.

The deviation of the purpose does not need to be guessed from the mind of the publisher, because it leaves an objective trace that can be examined: first, the absence of a norm that was violated, because a warning letter that does not reprimand any violation cannot possibly be performing a constructive function; second, the odd momentum, namely the reprimand that is issued after the approval is given and the leave is completed; third, selective enforcement, that is, if other workers with a similar pattern of applying for leave have never been questioned, which shows that the reprimand targets the person and not his actions; Fourth, the selection of qualifications that target the personal, such as the label of indiscipline, instead of a description of specific actions.

The more traces are present at the same time, the stronger the conclusion that the disciplinary instrument has shifted its function to an instrument of removal. Such a conclusion has two consequences: at the level of a dispute of rights, it determines the invalidity of the warning letter; On a more serious level, it paves the way for the qualification of unlawful acts if the worker later demands compensation for the harm he causes, because using his authority to harm others outside his purpose is one of the classic forms of unlawful acts.

Subsection synthesis. In answer to the second research question, the approval of leave closes the door for the employer to question the leave again with a sanction instrument. All that is still open to him is the improvement of the system in the future, for example improving the leave application form or regulating the obligation of detail in the company's regulations for future applications. Improving the rules going forward is good management; Sanctioning past conduct on the basis of a rule that did not yet exist violates legal certainty. This subsection thus

contributes the second element of the study's originality: the use of legitimate expectations to explain why approval binds the employer.

Legal Consequences of Defective Warning Letters and Workers' Legal Remedies

The third problem formulation concerns the fate of warning letters that do not meet the requirements for validity along with the roads available to workers. As a doctrinal proposition, a warning letter issued without the basis of a written norm and without an act that meets the formulation of infringement is a substance defective act. Such defects cannot be cured by formal neatness, and the consequences of the law are layered. First, the warning letter is invalid as a stepping stone to termination of employment: it cannot be counted as the first warning letter in the series of Article 154A paragraph (1) letter k, so that the termination of employment that will later be built on it loses its procedural and substantive footing.

Second, the defect is contagious: the second and third warning letters issued as a continuation of the first defective letter collapse, because the multi-tiered series presupposes the legitimacy of each step. Third, there is room for workers to demand the withdrawal of warning letters and the cleaning of their personnel records, because warning letters that remain stored in personnel files continue to work silently to the detriment of workers in every assessment, promotion, and reference in the future.

In terms of the qualification of the dispute, the dispute regarding the validity of the warning letter for the leave that has been approved is a dispute of rights, because what is disputed is the implementation of the rights that already exist in the law and approval, not the demand for new rights. This qualification is important because it determines the path: bipartite negotiations as the first mandatory step, mediation or conciliation at the labor office if the bipartite fails, and lawsuits in the industrial relations court as the last estuary (Articles 3, 4, and 56 of Law Number 2 of 2004).

At each stage, one principle of proof works that benefits the worker in the pattern discussed: the party who postulates the existence of a violation, namely the employer, bears the burden of proving two things at once, the existence of written norms that are violated and the existence of acts that violate them (Article 163 HIR and Article 283 RBg). In an approved pattern of leave, the burden is practically impossible to bear, because the available evidence shows approval, notice, and the absence of any violated norm. The full pathway is summarised in Figure 1.

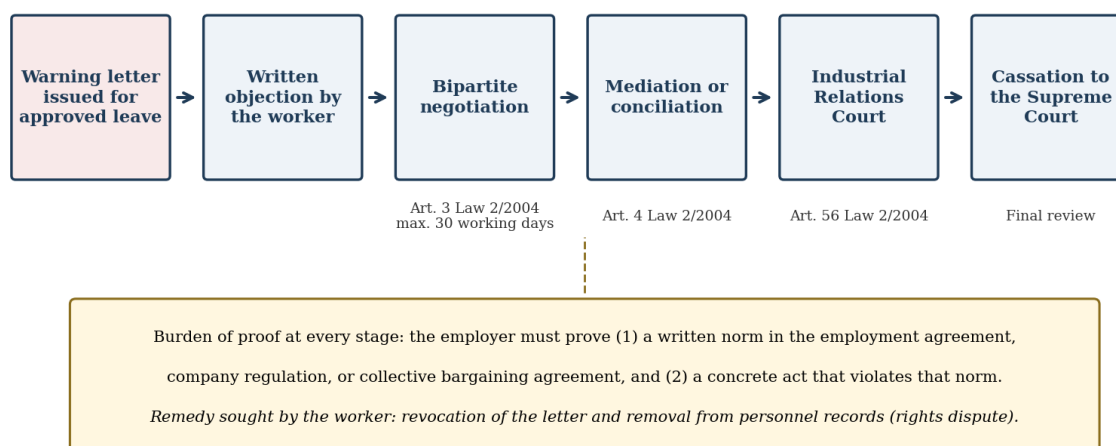


Figure 1. Legal Remedies Available to a Worker against a Defective Warning Letter

Source: compiled by the authors from Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes.

The decision search produced four decisions that show how industrial relations courts assess warning letters (Table 2). First, in Decision Number 16/Pdt.Sus-PHI/2016/PN.Dps, upheld by Supreme Court Decision Number 286 K/Pdt.Sus-PHI/2017, the court declared the employer's sanction decision invalid and void because the warning letters and sanctions did not follow the procedure in Article 21 of the company regulation, and ordered reinstatement. This line of reasoning confirms the first condition: the company's own written norm is the yardstick of validity. Second, in Supreme Court Decision Number 15 PK/Pdt.Sus-PHI/2016, which left Decision Number 321 K/Pdt.Sus-PHI/2014 intact, the Court held that even where an attendance violation and a third warning letter were proven, the employer could not terminate employment immediately because no further violation occurred within the six month validity of that letter. This confirms the fifth condition and shows that courts treat each letter as a time bound legal act rather than as a disguised termination.

Third, in Decision Number 6/Pdt.Sus-PHI/2024/PN.Pal, the court upheld a termination because the act in question, an unpaid top up transaction ordered by a store head, was expressly regulated as an urgent violation in the company regulation; the decision shows the reverse side of the same test, namely that a sanction stands when both the written norm and the concrete act are proven. Fourth, in Supreme Court Decision Number 681 K/Pdt.Sus-PHI/2020, the Court maintained the finding that the termination was invalid but amended the ruling to require the worker to accept a third warning letter because he had been proven to report for work while intoxicated, illustrating that courts use the warning letter as a proportionate sanction when the violation is established. None of the decisions reviewed concerned a warning letter issued for leave that had been approved, so the pattern examined in this article remains untested in reported jurisprudence, and the conclusions drawn about it are doctrinal propositions supported by, but not directly derived from, these rulings.

Table 2. Synthesis of Selected Industrial Relations Decisions on Warning Letters

Decision	Issue	Ratio decidendi (summary)	Condition tested
PHI Denpasar 16/Pdt.Sus-PHI/2016/PN.Dps jo. MA 286 K/Pdt.Sus-PHI/2017	Warning letters and sanction not in line with the company regulation	Sanction decision declared invalid and void; worker reinstated	Condition 1 (written normative basis)
MA 321 K/Pdt.Sus-PHI/2014 jo. 15 PK/Pdt.Sus-PHI/2016	Termination issued one day after a third warning letter	A proven violation and a third letter do not permit immediate termination without a new violation within six months	Condition 5 (time and level regime)
PHI Palu 6/Pdt.Sus-PHI/2024/PN.Pal	Termination for an unpaid top up transaction by a store head	Termination upheld because the act was expressly regulated as an urgent violation in the company regulation	Conditions 1 and 2 (norm and act proven)
MA 681 K/Pdt.Sus-PHI/2020	Disciplinary breach (intoxication) followed by unilateral termination	Termination invalid, but worker ordered to accept a third warning letter as a proportionate sanction	Conditions 2 and 5 (proven act, staged sanction)

Source: Supreme Court Decision Directory and Supreme Court legal documentation portal, analysed by the authors.

The analysis in this chapter boils down to one proposition: in a labor law regime that places a warning letter as a prerequisite for termination of employment, the validity of a warning letter is the first bastion of worker protection, and the principle of legal certainty is the foundation of that bastion. A warning letter issued for approved leave undermines that foundation because it sanctions compliant conduct and contradicts the employer's own consent. If such letters are tolerated, the disciplinary instrument risks being turned into arbitrary action, and the workers who follow leave procedures most carefully become the most exposed to sanctions.

Subsection synthesis. In answer to the third research question, a warning letter that fails the validity test cannot serve as a step toward termination, its defect extends to subsequent letters, and the worker may seek its revocation as a rights dispute in which the employer bears the burden of proof. The case synthesis supports the validity test itself, while its application to approved leave remains a doctrinal contribution of this study.

CONCLUSION

The validity of a warning letter in the Indonesian labor law regime is determined by five cumulative conditions: a written normative basis, a concrete act that meets that norm, clear content, timely issuance, and compliance with the time and level regime. The authority to issue a warning letter is therefore a bound authority rather than free discretion. Approval of a leave request is a legal act that creates a legitimate expectation that the approved absence will not later be sanctioned; for leave used for worship, this expectation is reinforced by Articles 80 and 153 paragraph (1) letter c of the Manpower Law. A warning letter issued for approved leave without any violated written norm is substantively defective, cannot be counted as a step

toward termination, and may be contested as a rights dispute through bipartite negotiation, mediation, and the Industrial Relations Court, where the employer bears the burden of proving both the norm and the violation.

REFERENCES

- Agusmidah. (2010). *Indonesian Labor Law: Dynamics and Theoretical Studies*. Ghalia Indonesia.
- Agustina, R. (2003). *Unlawful Acts (Perbuatan Melawan Hukum)*. Postgraduate Program, Faculty of Law, Universitas Indonesia.
- Asyhadie, Z. (2007). *Employment Law: Employment Law in the Field of Labor Relations*. RajaGrafindo Persada.
- Basofi, M. B., & Fatmawati, I. (2023). Legal Protection of Workers in Indonesia Based on the Job Creation Law (Perlindungan Hukum terhadap Pekerja di Indonesia Berdasarkan Undang-Undang Cipta Kerja). *Professional: Jurnal Komunikasi dan Administrasi Publik*, 10(1), 77–86. <https://doi.org/10.37676/professional.v10i1.3544>
- Brown, A. (2017). A Theory of Legitimate Expectations. *Journal of Political Philosophy*, 25(4), 435–460. <https://doi.org/10.1111/jopp.12135>
- Fahlevi, G. R., Rompis, A. E., & Muttaqin, Z. (2023). Legal Analysis of the Application of the Principle of Legitimate Expectation to State Administrative Court Decisions. *Kertha Semaya: Journal Ilmu Hukum*, 11(2), 421–435. <https://doi.org/10.24843/KS.2023.v11.i02.p17>
- Julyano, M., & Sulistyawan, A. Y. (2019). Understanding the Principle of Legal Certainty through the Construction of Legal Positivism Reasoning (Pemahaman terhadap Asas Kepastian Hukum melalui Konstruksi Penalaran Positivisme Hukum). *Crepido*, 1(1), 13–22. <https://doi.org/10.14710/crepido.1.1.13-22>
- Ketenagakerjaan, K. (2025). *Satu Data Ketenagakerjaan: Industrial Relations Disputes Handled and Settled by Mediators, 2023 and 2024*. Ministry of Manpower of the Republic of Indonesia. <https://satudata.kemnaker.go.id>
- Mahy, P. (2022). Indonesia's Omnibus Law on Job Creation: Legal Hierarchy and Responses to Judicial Review in the Labour Cluster of Amendments. *Asian Journal of Comparative Law*, 17(1), 51–75. <https://doi.org/10.1017/asjcl.2022.7>
- Marzuki, P. M. (2014). *Legal Research (Penelitian Hukum)* (Revised Edition). Prenadamedia Group.
- Mertokusumo, S. (2010). *Getting to Know the Law: An Introduction (Mengenal Hukum: Suatu Pengantar)*. Universitas Atma Jaya Yogyakarta.
- Natanael, D. W., Wijayati, R. A., & Sitohang, M. (2024). Juridical Analysis of Unilateral Termination of Employment of Workers due to Urgent Violations. *Jurnal Hukum to-ra*, 10(Special Issue), 342–354.
- Pambudi, G. Y., & Najicha, F. U. (2022). Juridical Review of Workers' Leave Rights after the Enactment of Law Number 11 of 2020 concerning Job Creation. *Gema Keadilan*, 9(1), 70–80. <https://doi.org/10.14710/gk.2022.16153>
- Panggaribuan, W. A. P., & Manurung, M. (2025). Juridical Analysis of the Regulation of Workers' Leave Rights in Law Number 6 of 2023. *RIO Law Jurnal*, 6(1), 519–529.
- Pulungan, I. (2023). Legal Certainty for Employees with Fixed-Time Work Agreements

- Reviewed from the Job Creation Perpu. *Supremasi Jurnal Hukum*, 5(2).
- Saebani, B. A. (2021). *Employment Law: Perspective of the Omnibus Law*. Pustaka Setia.
- Saputra, O., & Heliyani. (2024). Analysis of the Implementation of the Employee Performance Appraisal System at the Personnel and Human Resources Development Agency (BKPSDM) of Payakumbuh City. *Jurnal Ekobistek*, 13(3), 120–128. <https://doi.org/10.35134/ekobistek.v13i3.808>
- Suhartini, E. (2020). *Labor Law and Wage Policy*. RajaGrafindo Persada.
- Sulistiarini, I., & Ismail, I. (2025). Performance Appraisal Methods in Performance Management (Metode Penilaian Kinerja dalam Manajemen Kinerja). *Jurnal Ekonomi Manajemen Sistem Informasi*, 6(4), 2547–2561. <https://doi.org/10.38035/jemsi.v6i4.4618>
- Sutedi, A. (2009). *Labor Law*. Sinar Grafika.
- Sychenko, E., Laruccia, M., Cusciano, D., Chikireva, I., Wenpei, L., & Smit, P. (2019). Dismissal Protection in the BRICS Countries in Light of ILO Convention No. 158. *BRICS Law Journal*, 6(4), 34–66. <https://doi.org/10.21684/2412-2343-2019-6-4-34-66>
- Termination of Employment Convention, 1982 (No. 158) and Termination of Employment Recommendation, 1982 (No. 166) (1982).
- Timothy, J., Wijayati, R. A., & Sitohang, M. (2024). Juridical Analysis of Industrial Relations Dispute Resolution due to Termination of Employment by Companies. *Jurnal Hukum tora*, 10(Special Issue), 170–187. <https://doi.org/10.55809/tora.v10iSpecial Issue.471>