

newsletter
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CASE LAW



Studio
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CONSULENZA
DEL LAVORO E FISCALE

Personal usage of company car: unlawful termination of employment

Corte di Cassazione, judgement no. 1377/2018

With judgement no. 1377 of January 19, 2018, Corte di Cassazione ruled the unlawfulness of disciplinary termination of employment against an employee for unauthorized personal usage of the company car. Termination of employment was ruled disproportionate for the behavior of an employee who had used the car for commuting between home and work and during lunch break.

Demotion of a “Dirigente”: compensation for potential damage

Corte di Cassazione, judgement no. 330/2018

Corte di Cassazione, with judgement no. 330 of January 10, 2018, confirmed that the demotion of a Dirigente may carry a potential damage to be compensated.

Assigning an employee to lower duties is, in fact, potentially suitable to generate a plethora of damaging consequences, both financial and non-financial (e.g., damage due to loss of professional attitude and health damage).

Specifically, the potential damage sustained by a Dirigente placed in a room without the possibility of using a computer and assigned to lower duties has been deemed worthy of compensation.

Unreachability of the taxpayer and notification of payment injunction

Corte di Cassazione, ord. no. 2877/2018

Corte di Cassazione, with order no. 2877 of February 7, 2018, provided some important clarifications on the possibility of deeming a taxpayer unreachable for the notification of a payment injunction.

The messenger must ascertain the transfer of the recipient to an unknown place after searching in the town where the subject is registered as resident, to verify that the transfer is not, in fact, a change of address within the same town. No regulation specifies which tasks must be performed for this purpose, nor how results of this search must be formulated; however, it must be evident that searches have been performed by the messenger and are connected with the notification.

Unavailability of the taxpayer and efficiency of the notification of payment injunction

Corte di Cassazione, ord. no. 2231/2018

With order no. 2231 of January 30, 2018, Corte di Cassazione provided clarifications on cases in which the taxpayer challenges a payment injunction while still paying it.

The Court specifies that, in said circumstances, payment cannot be considered performed out of the taxpayer's free will and may therefore be repealed.

Failure to pay contribution and reversal of the burden of proof

Corte di Cassazione, judgement no. 4206/2018

With judgement no. 4206 of January 30, 2018, Corte di Cassazione confirmed regulations on burden of proof in case of application of criminal penalties for failure to pay social contribution.

The burden of proof falls on the accusing party for what concerns possible further unpaid monthly contribution payments exceeding the criminal liability threshold (€ 10.000/year as per Legislative Decree no. 8/2016).