

newsletter
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CASE LAW



Studio
Arlati Ghislandi

CONSULENZA
DEL LAVORO E FISCALE

Termination of employment on justified objective grounds and usage of temporary work or fixed-term employment contracts

Corte di Cassazione, 25 July 2018, no. 19731

Corte di Cassazione, with judgement no. 19731 of 25 July 2018, pronounces upon the legitimacy of termination of employment, on justified objective grounds, following an internal reorganization. Said reorganization involved the usage of seasonal workers in lieu of the terminated employee.

The Court deemed termination legitimate since the employer didn't proceed to the new hire of permanent employees and actually reorganized its structure, hiring seasonal workers for certain periods of intense activity.

Collective dismissals and family burden criteria

Corte di Cassazione, no. 20464 of 2 August 2018

Corte di Cassazione, with judgement no. 20464 of 2 August 2018, pronounced upon the application of the criteria of family burdens in a collective dismissal procedure.

The audit of family burdens cannot simply consider the number of subjects in the family, but must also consider the employee's actual economic conditions, especially if the company has knowledge of this.

Specifically, an employee was reinstated when the judge determined that, despite having "only" 2 dependent (at 50%) children, his situation as a whole was worse than that of other employees.

Injury and obligation to restore non-asset damage, uncovered by INAIL

Corte di Cassazione, no. 20392 of 1 August 2018

Corte di Cassazione, with judgement no. 20392 of 1 August 2018, pronounced upon the employer's obligation to pay the employee, victim of a work-related injury, compensation for damage uncovered by INAIL.

The judge may ascertain damages uncovered by INAIL insurance and connected with the injury, therefore legitimately sentencing the employer to pay compensation according to normal civil liability procedures.

Tax bills: conservation of documents for procedural purposes

Reggio Emilia Provincial Tax Commission, 30 July 2018, no. 143

The provincial tax commission of Reggio Emilia, with judgement no. 143 of 30 July 2018, pronounces upon the obligation, for the enforcing agency, to keep the tax bill or its copy, including proof of notification, for more than the normal 5-year period required for the conservation of administrative documents.

The commission confirms the existence of this obligation, while highlighting the needs inherent to judicial disputes. In said case, general regulations on the satisfaction of the burden of proof find full application and the enforcing agent will still be held, regardless of the 5-year mandatory conservation period, to provide proof of notification.

Income generated in France and obligation to declare it in Italy

Corte di Cassazione, order no. 20291 of 31 July 2018

Corte di Cassazione, with order no. 20291 of 31 July 2018, pronounces on the obligation to declare, in Italy, income generated and made subject to taxation in France, in application of the agreement against double taxation.

The Court ruled that income earned in France, as an executive of a French company, clearly taxed in France, must also be declared in Italy. The application of IRPEF and local additional national taxes, in case of lack of match in the employee's tax declaration, is therefore legitimate.