

newsletter
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CASE LAW



Studio
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CONSULENZA
DEL LAVORO E FISCALE

Collective dismissal and discriminatory choice criteria

Corte di Cassazione, 19 December 2018, no. 32876

Corte di Cassazione, with judgement no. 32876 of December 19, 2018, ruled that termination due to staff reduction - pursuant to Law no. 223/1991 – in which the almost exclusive criteria for the choice of employees to be terminated, their willingness to accept shift-based work.

The Corte, while confirming that – in theory – it is lawful to grant different weight to different criteria, also specifies that this must not be a cover for discriminatory intentions. In this case, the adopted criteria was harmful to employees who for serious reasons, personal or family-related, could not work on shifts.

Deskilling and evaluation of damage

Corte di Cassazione, 7 December 2018, no. 31754

Corte di Cassazione, with judgement no. 31754 of December 7, 2018, pronounces itself upon the criteria to be adopted in case of damage due to deskilling.

The judge may detect the damage from provided proof (to be provided by the employee), determining its amount according to principles of fairness. This evaluation must also consider the employee's previous work experiences (in quality and quantity), the type of damaged professional skills, the outcome of deskilling and other circumstances.

Attachment of salary: effects of failure to notify the debtor

Court of Rome, 5 December 2018

The ordinary Court of Rome confirmed, on December 5, 2018, that execution must be suspended in case of failure to notify the attachment of salary to the debtor.

Procedural regulations require the seizure to be notified also to the debtor and, in case of failure to notify, the seizure does not have the effect of tying attached goods or credits to the payment of the creditor. It must also be added that only through notification the debtor may exercise rights of defense and raise objections where appropriate.

Card granted to employees: deductibility of costs

Corte di Cassazione, 16 January 2019, no. 874

Corte di Cassazione, with judgement no. 874 of January 16, 2019, confirmed the deductibility of the cost of cars granted to employees.

Said costs are connected with business activities and, as contemplated by law (art. 121-bis, c. 1, let. A, no. 2) are entirely deductible. The burden of proving that cars are granted to employees falls upon the taxpayer.

Payment notice: null and void without the name of the responsible subject for the procedure

Corte di Cassazione, 28 December 2018, no. 33565

Corte di Cassazione, with judgement no. 66565 of 28 December 2018, pronounced upon the obligation to state the name of the responsible subject for the procedure on the payment notice, confirming that the document is null without said specification.

This obligation, far from being a useless chore, is aimed at ensuring the transparency of administrative action, the citizen's full information and the guarantee of the rights of defence.

Unlawful temporary work agency performance and INPS legitimation

Corte di Cassazione, ordinanza 9 gennaio 2019, n. 270

With order no. 270/2019, Corte di Cassazione pronounced upon the active legitimation of INPS in case of unlawful performance of temporary work agency activities.

The Order confirms that INPS is entitled to act, being entitled to receive social contribution due on the subordinate employment relationship with the actual employer.