

newsletter
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CASE LAW



Studio
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CONSULENZA
DEL LAVORO E FISCALE

Small reduction of revenue: lawful termination

Corte di Cassazione, 18 July 2019, no. 19302

Corte di Cassazione, with judgement no. 19302/2019, pronounced upon the legitimacy of termination due to a very small reduction of revenue.

The Court confirms that reasons aimed at improving efficient management or increasing profitability, aimed at an actual change of company organization via the suppression of a position, may be consistent with termination on justified, objective grounds.

Mobbing and straining: definitions

Corte di Cassazione, order 4 June 2019, no. 15159

Corte di Cassazione, with order no. 15159/2019, provides a definition of “mobbing” and “straining”.

Mobbing can be detected in presence of actual harassment episodes, paired with repeated harmful behavior and a persecutory attitude against the victim.

Straining is instead a milder form of mobbing, enacted via willful stressful behavior against an employee, also without a plurality of episodes or with a limited number of instances, yet still with harmful effect for the victim.

IRPEF reimbursement: restitution always allowed

Corte di Cassazione, order 1st August 2019, no. 20744

Corte di Cassazione, with order no. 200744, confirmed that, according to art. 10, par. 1, let. d) bis of Presidential Decree no. 917/1986, taxpayers are entitled to use, in tax return forms, deductions from taxable base. Failure to use this does not prevent ordinary reimbursement requests, within statutory terms.

Summary assessment: burden of proof

Corte di Cassazione, no. 20344 of 26 July 2019

Corte di Cassazione, in judgement no. 20344 of 26 July 2019, confirms that, upon summary assessment in tax audit procedures:

- public authorities must prove, with certain probatory elements, the difference between declared and assessed income, possibly also with grave, precise and consistent assumptions, and
- the taxpayer must provide proof of the contrary, i.e. show the existence and consistence of a previous financial availability.

Specifically, art. 38 of Presidential Decree no. 600/1973 requires more than the mere proof of further income and, while not explicitly stating any obligation to provide proof that these further sums have been used to cover assessed expenses, it still requires documental proof in support.

Failure to pay social contribution duties and civil fines: functional link

Corte di Cassazione, 29 July 2019, no. 20413

Corte di Cassazione, with judgement no. 20413/2019, stated that, in case of failure to pay social contribution for an employee in a tender contract, INPS may ask the co-obligated party to pay both social contribution and civil penalties.

These sums are automatically applicable in case of late payment or failure to pay and consist in a predetermined, legally established sum, automatically payable upon expiration of legal terms for the payment of social contribution.

Social benefits: irrelevance of formal defects

Corte di cassazione, order no. 19724 of 22 July 2019

Corte di Cassazione, with order no. 19724/2019, confirms that, in order to fulfill the requirement of previous submission of the request, there is no need to formally fill in INPS forms or use precise formulae, as long as the request allows the correct detection of the required benefit.