

Employers have the obligation to pay their employees and to give them their pay slips on time at the end of each month

An employee, hired under a permanent contract resigned with immediate effect for serious misconduct on the part of his employer.

From the first day of employment, the employee has always been paid late and has always received his pay slips late.

The employee lodged a claim against his former employer and requested the Court to judge that his resignation with immediate effect for serious misconduct on the part of his employer produces all the effects of an unfair dismissal ("*requalification en licenciement abusif*").

The employee claimed that his resignation with immediate effect resulted in a material and moral loss for him, to be compensated by the employer and he also claimed for a compensatory allowance in lieu of notice equal to the salary corresponding to the notice period to be respected by the employer in case of a dismissal.

The Court of Appeal recalled in a decision rendered on June 30th, 2022 (CAL-2021-00654) the general principle according to which the obligation for the employer to pay his employees is the compensation for the work they performed.

The Court also mentioned that in this case, the employment agreement provided the obligation for the employer to pay the salary at the end of each month.

The employer never challenged that the salary was indeed always paid late and that the employee never received his pay slips in due time.

The Court therefore noted that the employer has indeed failed to meet its legal obligations to pay his employee and to give him its pays slips on time at the end of each month, which constitutes a serious misconduct, that makes it immediately and definitively impossible to maintain the employment relationship.

The resignation was therefore declared justified.

Regarding the material loss, claimed by the employee, the Court recalled that the employee is entitled to claim the loss of salary referring to a period of time during which the employee should have found a new job. ("*période de référence*"). As the employee didn't make sufficient efforts to find a new job, the Court decided that he was not entitled to any material damage and therefore confirmed the judgment rendered in first instance, which rejected the employee's claim for material damage.

Regarding the moral damage, the Court recalled that even if the employee can't prove that he did sufficient researches to find a new job, he obviously suffered a moral loss resulting from an offense to his dignity, due to the employer's failure to comply with its legal obligations.

Linari law firm is of course available should you need any assistance regarding labour law or dispute resolution (legal advice, pre-litigation and litigation)

