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It is lawful the dismissal due to loss of confidence if an employee stole a pair of glasses from his employer's client

The National Appeals Labour Court considered that the fact of having stolen a pair of glasses to a client turns out to be a breach to justify the termination of the employment contract, being irrelevant that the worker had no disciplinary records.

In the case "A. D. I. c / M. A.", the claimant appealed the judgment of first instance that rejected his claim in substance.

The contested judgment held that the fact that glasses belonging to a client of the defendant were found in the claimant's bag, established a sufficiently serious wrong action that did not allow the continuation of the labour relationship. Therefore, it is considered lawful, the dismissal with a cause by the company.

With this in mind, the judges pointed out that "the principle of good faith that must prevail in every contract of employment, and which constitutes a legal obligation regulated by article 63 of the L.C.T. (Employment Act), and the duty of trustworthiness provided for in article 58 of the aforementioned act, impose on the parties the fulfillment of certain substantial obligations, which are not to incur in acts that may cause damages to the employer in the performance of the work commended, under the possibility of configuring such breaches sufficient grounds to justify a loss of confidence, which although it constitutes a subjective assessment, must be based on concrete facts and breaches that justify its invocation."

According to the judges, the foregoing is configured in the present case, since "... it is of a seriousness and sufficient importance to justify the termination of the employment relationship due to lack of confidence -articles 242 and 243 of the L.C.T.-, so I consider it irrelevant that the claimant had no disciplinary record."

In the decision of February 3, the aforementioned Court concluded that "the loss of trust and confidence is a legal definition that results in a subjective thought without legal effects, since they are the facts on which are based those that must be object of scrutiny in order to determine their objective suitability as labour damages to the employer, i.e., breaches whose seriousness make it impossible to continue the employment relationship, or more precisely, enable the employer to terminate the employment agreement, because the irreversible damages that caused to the business..." thus confirming the contested decision.

One of the conclusions to bear in mind, is that employers must carefully and accurately analyse whether the acts –as the example mentioned in this paper- deployed by their employees can create a case of loss of confidence, which may enable them to dismiss his employees.

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