



Termination by regular notice due to tax evasion of employee effective - Labour law

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GRP Rainer Lawyers and Tax Advisors in Cologne, Berlin, Bonn, Dusseldorf, Frankfurt, Hamburg, Munich, Stuttgart and London - www.grprainer.com/en conclude: The Kiel Labour Court (ArbG) ruled in a recent judgment (Az.: 2 Ca 1793 a/13; not yet legally binding) that unlawful actions of employees aimed at increasing their net earnings can justify dismissal. The employee who raised the action was said to have credited her additional work to two marginally employed workers and then had them pay out the money to her. In doing so, she obtained far greater net earnings. In court, the plaintiff stated that this accounting method was suggested to her by the responsible operations manager.

The executive director of the nationwide employer dismissed the plaintiff when he learned of these circumstances. The employee's claim for wrongful dismissal was then unsuccessful before the ArbG Kiel. In its statement of grounds, the Court stated that the plaintiff had not fulfilled her obligation of consideration. She had consciously circumvented laws by her conduct and acted purely based on personal financial motives. Even if the operations manager as her immediate superior had been aware of the accounting practice, one would still have to start with the assumption that management had not consented to this.

Moreover, in such a case a written warning is not necessary. Even her long service at the company and severe disability were not an obstacle to dismissal due to the severity of her misconduct.

Legal problems can come up again and again between employee and employer within the framework of an employment relationship. Questions often arise particularly in dismissal cases with respect to the legitimacy of a dismissal and possible severance claims. Those affected should therefore turn to a lawyer active in the field labour law, who can initially examine the legitimacy of the dismissal, taking into account the particular circumstances of each case.

Due to the very tight deadlines in labour law, immediate action is often necessary. For example, an action for wrongful dismissal must be lodged three weeks following receipt of the dismissal. In many cases, it is sensible to reach an agreement in the employment contract on the most important points so that difficulties do not arise later. A lawyer can also be of assistance here in helping to draft a valid contract.

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Anlage: Bild

