

Suspicion of personal enrichment can justify an extraordinary dismissal - Employment Law

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GRP Rainer Lawyers Tax Advisors, Cologne, Berlin, Bonn, Düsseldorf, Frankfurt, Hamburg, Munich, Stuttgart, Hanover, Bremen, Nuremberg, Essen and London www.grprainer.com/en explain: In the instant case of 22 May 2013 (Az.: 26 BV 31/12), the employer submitted a petition to the Labour Court for substitution of the works council's consent for extraordinary dismissal. The employee was suspected of having used a credit memo issued in favour of the employer to make a private purchase. The employer wanted to subsequently extraordinarily dismiss the employee, who was also at the time the chairman of the works council, but failed to do so after the works council refused to give the necessary consent for this.

The Court substituted, apparently in accordance with the petition, the consent of the works council for extraordinary dismissal on grounds of suspicion. In justifying its decision, the Court relied on the high probability that the employee had used a credit memo belonging to a business to finance private purchases.

In the Court's view, it is not only conduct in terms of actionable crimes against assets and property that is considered as a ground for extraordinary dismissal, but also a different conduct which is aimed at the assets of the employer and comparably severe. The crucial factor here is, in particular, the breach of trust between the parties that accompanies such conduct and not necessarily the extent of damages. Moreover, the employee's actions entail a breach of duty, since he would not respect the interests of the employer.

Dismissal on grounds of suspicion can then be effected by the employer if it is suspected that circumstances could exist which justify dismissal. An example of such circumstances could be the perpetration of a criminal act at the expense of the employer.

Where there are questions concerning employment agreements, written warnings and dismissals, a lawyer active in the field of labour law should be sought who can carry out a legal examination. A lawyer can help with enforcing claims and provide support where labour law issues are present.

<http://www.grprainer.com/en/Employment-Termination.html>

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Anlage: Bild

