

SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 102

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WEEKLY ITALIAN LABOUR UPDATES

"Remote working is a
key issue to support
overseas work."

Companies must inform trade unions of automated digital systems for managing relations

Companies that use automated digital systems to manage employment relationships are obliged to send a written notice to their trade unions. With this in mind, the conduct of a company that used a digital platform to manage the assignment of home deliveries without first informing the relevant trade unions in writing, was

considered anti-union. This obligation is imposed by the provisions introduced by Legislative Decree 104/2022 (the so-called Transparency Decree).

Trib. Palermo (ord.), Judge Bruno, 03/04/2023

Dismissal for poor performance and duty of care

Dismissal for poor performance falls within the category of dismissal for subjective justification and therefore has a disciplinary nature, since it presupposes that negative results produced by an employee are attributable to a breach of contractual duties, including the duty to perform with diligence. Given these prerequisites, an employee's dismissal for poor performance on the basis that their production figures were significantly inferior to those of colleagues assigned to the same tasks, was considered lawful provided that their employer could prove that the negative result was due to the employee's breach of contractual obligations – in this case grossly negligent conduct.

Cass. (ord.) 06/04/2023 no. 9453

Regional bodies accredited for training through the New Skills Fund

Training financed through the New Skills Fund can be provided by the training providers listed by the Regions. ANPAL has established that, pending the completion of the aforementioned lists, employers who have signed the company agreement and submitted a training project in order to access the financing of training through the New Skills Fund may use other regional accredited providers. This is obviously without affecting employers' right to use nationally accredited entities already in place.

ANPAL, Supplementary Note 05/04/2023

Invalid business transfer and the transferor's contribution obligations

If the transfer of the branch of business is declared invalid, INPS is entitled to claim from the transferor company the payment of contributions in respect of the period of work performed by employees at the transferee company. This obligation remains even if the transferee company has duly paid contributions in respect of the employees' work for the period actually worked. The declaration of invalidity of a business transfer entails the re-establishment 'ex tunc' of employment relationships with the transferor company. This condition determines the continuation of all salary and contribution obligations for the latter, as if the transfer of the business branch had never taken place.

Cass. (ord.) 31/03/2023 no. 9143

Irregular use of loyalty card is just cause for dismissal

The dismissal of a supermarket cashier for using her loyalty card for purchases made by customers without such a card, is justified. The conduct of the cashier who, on 53 occasions in the space of 21 days, scanned her loyalty card for purchases made by customers, constitutes a breach of the "ethical minimum" standard required and is in conflict with the principles of fairness and good faith. The cashier's job presupposes an intense bond of trust and failure to comply with the internal regulations, which prohibit cashier operators from using their loyalty cards for customer purchases, is a breach of the general duty of loyalty.

Trib. Foggia, Judge Ricucci, 30/03/2023

INPS contributions due despite waiver

The waiver by parties of an indemnity in lieu of notice expressed in an agreement in which the parties changed the title of the termination into a consensual termination is unenforceable against INPS. Social security contributions relating to notice period are due to the social security institution even if parties have waived the economic indemnity in lieu of notice. Waivers expressed in the conciliation agreement have effect only between the parties to the employment relationship but not INPS.

Cass. (ord.) 29/03/2023 no. 8913

Slandorous accusations to judicial authority are just cause for dismissal

Slandorous accusations concerning colleagues and superiors equates to insulting conduct detrimental to the dignity and honour of others. The dismissal for just cause of an employee who made an unfounded complaint to the judicial authority against colleagues and superiors was therefore lawful since it transpired that the accusations were untrue and slanderous. It was irrelevant that they complaint to the judicial authority and not directly to their colleagues.

Cass. (ord.) 13/03/2023 no. 7225

Activity can be resumed with archiving decree of suspension order

INL has clarified that an employer who has been suspended for health and safety violations may resume activity if the Criminal Court issues an archiving decree for the individual having complied with the prescriptions provided by the supervisory body. In such a case, the resumption of activity is legitimate and does not constitute an offence, even if the suspension order has not (yet) been lifted. However, even in the presence of the archiving decree, the employer still must pay the additional sums provided for by the Consolidated Work Safety Act. Moreover, if the archiving decree comes after the order has been revoked because the employer has, in the meantime, paid 20% of the additional sums provided for by the Consolidated Safety Act, the obligation to pay the residual sum, with the 5% surcharge, remains.

INL, Note 06/04/2023 no. 642

Instructions on contribution relief for solidarity contract 2021

A contribution relief is provided for employers who, in 2021, signed a solidarity contract by 30 November, as well as for employers who had a solidarity contract in place in the second half of 2020, provided that the relevant CIGS periods ended by 30 June 2022. The reduction applies to contributions due for workers with a reduction in working time of more than 20%. The measure of the relief is 35% of the amounts due for the duration of the solidarity contract for a maximum of 24 months. INPS has provided a list of the types of contributions to which the relief is not applicable (including those to the Air Transport Solidarity Fund and those to the INPS severance pay fund). Finally, it is specified that the Uniemens adjustment operations must be carried out by 16 July 2023.

INPS, Circolar 05/04/2023 no. 40

Use of permits and leaves for disabled assistance

The INPS has provided further clarifications on the new provisions concerning permits and leaves for disabled assistance introduced by Legislative Decree no. 105/2022 (the so-called Balancing Decree). In particular, the circular specifies that permits and leaves for assistance to recognised disabled individuals pursuant to Law 104/1992 may not be taken as an extension to parental leave nor in the presence of a request for daily rest hours as an alternative to such an extension. For months in which one or both parents have been authorised to take the extension of parental leave or daily rest hours as an alternative to it, INPS will reject any applications for monthly leave for the same severely disabled person.

INPS, Circolar 04/04/2023 no. 39

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