



NEWS, LATEST, CURRENT TOPICS

## COMPENSATION DUE TO EMPLOYEES IN THE CONTEXT OF DISMISSAL PROCEDURES FOR OBJECTIVE REASONS

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Article 340 of the Labour Code identifies all the legally permissible ways of terminating employment contracts.

It is worth highlighting the possibility of terminating an employment contract by collective dismissal or job extinction, which are characterised by being based on objective reasons, i.e. they apply regardless of the existence of an unlawful act attributable to the employee.

It is important, as it is particularly relevant to this article, to highlight the figure of collective dismissal, which necessarily depends on the employer carrying out a series of procedural steps, duly organised and sequential. In simple terms, the collective dismissal procedure comprises the following acts:

- a) Notification of employees of the initial notice of collective dismissal procedure;
- b) An information and negotiation meeting is held, attended by the employer, the employees affected by the collective dismissal procedure and, in certain cases, a representative of DGERT (Directorate-General for Employment and Labour Relations);
- c) Notification to employees of the final dismissal decision.

After notification of the final dismissal decision, employment contracts do not end immediately. Under the terms of Article 363 of the Labour Code, employees covered by the collective dismissal procedure also benefit from a period of notice, the length of which depends on the seniority of the employees at the time the dismissal decision is notified, as follows:

- a) 15 days in the case of an employee with less than one year's seniority;
- b) 30 days, in the case of an employee with a length of service equal to or greater than one year and less than five years;
- c) 60 days, in the case of an employee with a length of service equal to or greater than five years and less than 10 years;
- d) 75 days, in the case of an employee with 10 years' seniority or more.

During the notice period, labour legislation gives employee certain prerogatives. In this field, it is important to highlight the possibility that workers affected by collective dismissal procedures can, with just 3 working days' notice, terminate their employment contract, thus bringing forward the date of termination of the employment relationship.

In situations where employees terminate their employment contract during the notice period as part of a collective dismissal procedure, they retain the right to receive the full compensation provided for in Article 366 of the Labour Code, which corresponds to 14 days' basic pay and seniority pay for each year of seniority.

The legislation thus offers additional protection to workers whose employment contract is terminated as a result of collective dismissal. In effect, and despite the fact that the date of termination of the contract is brought forward, which will invariably mean shorter seniority, employees who activate this legal prerogative retain the right to receive the compensation that would be due to them if they had fully complied with the notice period.

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