

[TERMINATION OF EMPLOYMENT CONTRACT]

Lying in a resume is be a cause of dismissal!

(Cass. Soc. November 25th, 2015, 14-21521)

An employee who lies on his real professional situation during the recruitment process is guilty of a misrepresentation which is exclusive of the trust required for a contractual relationship and constitutes a serious misconduct rendering impossible the pursuit of the contract.

Surprisingly, this recent decision of the French supreme court is a change in the case law trend.

Indeed, up until now, the courts considered that the background checks accuracy were of the responsibility of the sole employer. This position was particularly severe and could seem contradictory with the duty of loyalty that rests on a candidate (L.1221-6 of the French Labour Code). In fact, it meant that, at the recruitment stage, the employer could not miss this only chance to perform a thorough and complete professional background check.

Hence, the court considered that an employer who had failed to check a candidate's business school and master degree could not claim the contract was void – no matter how decisive those degrees had been in the recruitment process (Cass. Soc. October 17th 1995, 95-41239). In this case, not only the employee did not have the degrees he claimed to have, but he also enhanced a previous job experience...

In another instance, the court held a dismissal to be unfair where the employee had, three years before upon his recruitment, lied on his degrees. The court found that there was no misrepresentation and that, while he did not have the alleged degrees, his employer had never made any reproaches on the quality of his work (Cass. Soc. March 30th 1999, 96-42912).

In the present case, the employee had mentioned a false professional experience on his resume and, over the course of the recruitment process, had purposely maintained the illusion through several assertions in relation with his alleged employer. In this case, this professional experience had been a key decision factor.

With this decision, it now seems the supreme court finally considers that breaches of the duty of loyalty imposed on candidates before the existence of a contract can be sanctioned after entering into an employment relationship.

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