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Practice Group(s):

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Innovative Judgment Regarding Individual Dismissal Due to Objectively Justified Reasons—Absence on Holidays and Authorised Time Off Can Lead to Dismissal

By Roberto Podda

The Labour Court of Rome has recently issued a landmark judgment involving an individual dismissal for objectively justified reasons due to the employee's poor performance.

The case concerned an HR manager employed by a company operating in the field of credit recovery. The company—advised by Roberto Podda and Ilaria Romano of K&L Gates—decided to dismiss the employee due to repeated absence from the workplace connected with sick-leave, holidays and time off authorised by the applicable collective bargaining agreement.

The HR manager challenged the dismissal before the Labour Court of Rome. The court agreed with submissions advanced by K&L Gates and found the dismissal to be lawful. The court wholly rejected the employee's claims and ordered the employee to pay the company's legal costs.

The court noted that the repeated and sudden absences had a negative impact on the employer's organization and production, thereby rendering the HR manager's employment completely useless from the perspective of furthering the employer's interests.

The judgment is significant because for the very first time, an Italian Labour Court has considered that an individual dismissal due to repeated absence by an employee may be based not only on sick-leave, but also on absences of the employee's own choosing such as holidays and authorised time off.

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