

Compensations from the employer due to redundancy

Question:

I have been working in the company for more than two years, and recently I was given a letter with a notice of dismissal on grounds of redundancy. Can I apply for any compensation and in what amount? Is there any law protecting the rights of single mothers (my child is one year and seven months old, and he is a citizen of Cyprus)? What authority I should contact in case of refusal of paying compensation?

Response:

In case you have been working for at least 104 weeks for the same employer and your employment is terminated due to redundancy, before the attainment of the pensionable age, you are entitled to a redundancy payment out of the Redundancy Fund.

It is also pointed out that seasonal employment with the same employer for at least 15 weeks on average over the period of such employment is deemed to be continuous.

An employee is redundant when his employment is terminated for any of the following reasons:

1. Because the employer has ceased or intends to cease to carry on the business in which the employee was employed.
2. Because the employer ceases or intends to cease to carry on business in the place in which the employee was employed.
3. Because of any of the following other reasons concerned with the operation of the business:
 - Modernization, mechanization, or any other change in the methods of production or organization, which reduces the number of employees necessary;
 - Changes in products or production methods or in the skills needed on the part of the employees;
 - Closing of departments;
 - Marketing or credit difficulties;
 - Lack of orders or raw materials;
 - Scarcity of means of production;
 - Contraction of the volume of work or business.

An employee is not entitled to redundancy payment, even if he has been declared redundant, where,

- The employer, before terminating the employment, makes an offer of suitable alternative employment and the employee unreasonably refuses this offer.

- The employment has been terminated as a result of the transfer of the business to another employer, who has renewed the contract of employment.
- The employer is a registered company under the Companies Law and the employee is transferred to a suitable post in another company associated with the former company. Two companies are treated as associated companies, if one of them is a subsidiary of the other or, if both of them are subsidiaries of a third company. The term ‘subsidiary’ has the meaning assigned to it by section 148 of the Companies Law (Cap.113 as amended).
- Before the termination of employment another employer, who is company in which the employer is the main shareholder or exercises substantial control, offers the employee suitable employment.

The amount of redundancy payment is calculated taking into account the period of the employee’s continuous service and his final wages, as follows:

PERIOD OF CONTINUOUS EMPLOYMENT	AMOUNT OF REDUNDANCY PAYMENT
Up to 4 years	2 weeks wages for each year of continuous employment
More than 4 and up to 10 years	2 ,5 weeks wages for each period of continuous employment
More than 10 and up to 15 years	3 weeks wages for each year of continuous employment
More than 15 and up to 20 years	3,5 weeks wages for each year of continuous employment
More than 20 and up to 25 years	4 weeks wages for each year of continuous employment

- Where the claimant is a shareholder of a private company and is employed by this company otherwise than under a contract of employment or under such circumstances from which an employer employee relationship may be derived, the redundancy payment is equal to one percent (1%) of his weekly wage multiplied by 52 and by the number of years of employment.
- Where the total period of employment exceeds a number of complete years, any fraction of the year of 26 weeks or more is deemed to be a complete year.
- Where the redundant employee has attained the age of 64 years, the redundancy payment is reduced by 1/12 for each completed month by which the age of the employee exceeds 64 years.

Where the employee is entitled at the same time to redundancy payment both out of the Redundancy Fund and from his employer by custom, law, collective agreement or contract, the employee receives the amount payable out of the Redundancy Fund and from his employer any amount by which the payment due by him exceeds the payment out of the Fund. It is clarified that payment out of the Redundancy Fund is not considered as payment by the employer.

The period of employment is calculated in weeks. The following weeks count in computing the period of employment:

1. A week in which the employee has worked 18 hours or more.
2. A week in which the employee was:
 - Unable to work because of sickness, injury or pregnancy,
 - Absent from work because of temporary cessation of work,
 - Absent from work in circumstances such as, by arrangement, custom or law, the employer - employee relationship is considered by the Labor Disputes Court continued.
 - Absent from because of parental leave.

For the purposes of calculating the period of employment of seasonal workers only weeks of actual work are taken into account. As a general rule only periods of employment with the employer who terminates the employee's employment are taken into account. However, when the business is transferred from one employer to another or where the employee is transferred from one company to another associated company, or to a company essentially controlled by the same persons as the transferor company, account is taken of the employee's employment with all such employers.

In order to receive payment out of the Redundancy Fund, you must make a claim on the prescribed form, which you can obtain from the nearest Social Insurance Office, Citizen's Service Centre or through the internet. The claim must be submitted to the nearest Social Insurance Office, within three months at latest from the date of termination of the employment. However, in exceptional cases, where the employee shows that he had a good reason for the delay, payment may be approved provided that the claim is made within 12 months from the date of termination of his employment.

In case your request will be rejected or you have objection for the decision of Redundancy Fund, you may appoint a Lawyer in order to bring a Lawsuit at the Labor Disputes Court to decide on disputes arising out of the application of the Termination of Employment Law.