

Employee rights and specific circumstances in case of resignation

The termination of employment contracts by the employer is prohibited excluding some very limited exceptions during the pandemic period while the resignation of employees by their own will is seen frequently in practice. Accordingly, some rights and liabilities arise between the parties. In this article, we will mention the rights employees may and will not benefit from if they resign and some specific circumstances.

Validity of resignation

Resignation is one of the situations that terminates the employment contract, and a valid resignation must have some elements. First of all, resignation is a unilateral legal process and it becomes valid when the petition of resignation reaches the employer. If the reason for resignation is stated in the petition, the employee has to be dependent on that reason. Therefore, the reason for resignation cannot be changed later.

Conditional resignations such as "the acceptance of my resignation on condition that my severance pay and receivables on my weekly vacation are given" should be considered as a mutual rescission, not a resignation. Unlike resignation, it is a mutual termination agreement between the employee and the employer and is within the scope of the termination prohibition.

Also, receiving a signed blank petition from the employee during the recruitment period or while the employment is continuing and then subsequently submitting it as a letter of resignation will not be legally valid when proven otherwise.

Apart from that, the Supreme Court compares the real reason based on the worker with the reason stated in the letter of resignation; For example, it does not accept it as a normal behavior for a person who has gained certain rights in the workplace to terminate these rights by resignation. Apart from that, the Supreme Court compares the real reason based on the worker with the reason stated in the letter of resignation; for instance, it does not accept it as a normal behavior for a person who has gained certain rights in the workplace to terminate these rights by resigning.

Attention should be paid to the ban on termination

Currently, a termination ban is imposed until 17.11.2020 due to the pandemic. The cases that are not covered by the termination prohibition are:

- ✓ Cases and similar reasons that do not comply with the rules of morality and goodwill indicated in the sub-clause (II) of the first paragraph of Article 4857/25 and in the relevant provisions of other laws,
- ✓ Termination of fixed-term employment or service contracts,
- ✓ The closure of the workplace for any reason and the termination of its activities
- ✓ Termination of all kinds of service procurement and works made in line with the relevant legislation,
- ✓ The employee's resignation for all reasons, retirement application, requesting severance pay by filling other conditions other than age.

Severance pay in case of resignation

Basically, although workers cannot receive severance pay in case they resign; they may be entitled for severance pay under the principle of interpretation in favour of the worker in some circumstances:

- 1. Military Service:** If the employee terminates his employment contract due to active military service, he receives severance pay.
- 2. Marriage:** Female workers are entitled to severance pay when they resign due to marriage, provided that they have more than 1 year of seniority and do not exceed 1 year from the date of marriage. In case of remarriage, these rights of women workers are also valid.
- 3. Retirement:** In cases where the right to retirement is gained or only the age requirement is expected, severance pay can be obtained by obtaining a letter from the SSI.

Severance pay for immediate termination of the employee for just cause

If the worker resigns due to "health reasons", "situations that do not comply with the rules of ethics and goodwill" and "compelling reasons" indicated in Article 24 of the Employment Law, he/she is entitled for severance pay.

Severance pay on rightful termination by the employer

- ✓ If the employer terminates the employment contract with a temporary termination or for justified reasons other than the employee's acts against the rules of ethics and goodwill, the employee will be entitled to severance pay again. In this case, the employer will have to pay severance pay when he is rightfully terminating the employment due to health reasons of the worker, compelling reasons, if the employee is detained or arrested and the absenteeism exceeds the notification period.
- ✓ In the event of termination of the employer for valid reasons, the employees must be paid notice and severance pay provided that they have a seniority of at least 1 year.

Notice pay in case of resignation

When workers resign, they cannot receive notice compensation and if they do not comply with the notice period set in line with their seniority, have to pay the amount corresponding to this period to the employer. The employee does not pay notice compensation in case of notice termination.

Other rights on resignation

➤ Job seeking leave

For notified resignations, the employer must allow the employee to seek work for at least 2 hours a day. These hours can be used collectively provided that the employer is notified in advance.

➤ Unemployment pay in case of rightful termination by the employee

The employee who does not have a justified reason cannot receive unemployment pay in case of resignation even if he/she meets the requirements to receive unemployment pay while the employees proving that the resignation is based on the justified reasons stated in Article 24 may receive unemployment pension.

➤ Resignation during short-time working

Employees included in short-time working and resign while being paid short-time working allowance receive unemployment pay. As per the Presidential Decision, workers' time in short working is not deducted from the period in which they received unemployment pay. For example, a worker who has been covered by short-time working for 3 months and entitled to 8 months of unemployment benefit will be able to receive unemployment benefit for the entire 8 months.

➤ Health benefits

In case of resignation, workers can benefit from health services for 100 days after resignation provided that they have paid 90 days of general health insurance (GSS) premium within the last 1 year. Employees unable to meet this requirement can only benefit from health services for 10 days.

➤ Other labour rights should be paid

If the employee has receivables for unused annual paid leave and overtime pay etc. as of the date of resignation, they should be paid.

➤ The notice of acquittance should be issued at least 1 month after termination

The notice of acquittance should not be signed before this period since it will be invalid if it's signed in less than 1 month time as of the resignation.

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