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TYPE OF DISMISSAL IN SPAIN – SETTLEMENT PAYMENT

1. Types of dismissal depending on the causes

In Spain, there are three types of dismissals depending on the reason for dismissal. There are disciplinary, objective, or collective dismissals.

1.1. Disciplinary Dismissal

The employment contract may be terminated by decision of the employer by dismissal on the grounds based on a serious and culpable breach of contract by the employee.

Each disciplinary dismissal must be assessed on its own individual circumstances. In addition to the provisions of employment legislation, it is also necessary to review the applicable collective bargaining agreement (Convenio Colectivo), as this may regulate the classification of misconduct and the company's disciplinary regime.

There is no dismissal severance pay for this type of dismissal, but the employee is entitled to the settlement. No notice period is required.

This dismissal requires a letter of dismissal to be given to the employee, which includes the following information:

- A clear, concrete, and precise description of the facts and the behavior of the employee that have caused the dismissal.
- The effective date of the dismissal. This is normally the same day as the dismissal, as no prior notice is required.

The following shall be considered as breaching of contract:

- a) Indiscipline or disobedience at work.
- b) Verbal or physical offences against the employer or the people who work for the company or their family members.
- c) Breach of contractual good faith, as well as breach of trust in the performance of work.
- d) Continuous and voluntary reduction in normal or agreed work performance.
- e) Habitual drunkenness or drug addiction if they have a negative impact on work.

- f) Harassment on grounds of racial or ethnic origin, religion or belief, disability, age or sexual orientation, and sexual or gender-based harassment of the employer or individuals working in the company.
- g) Repeated serious misconduct, including theft from the company or fellow employees.

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