



MIJARES ANGOITIA
CORTES Y FUENTES

EMPLOYEE'S OBLIGATIONS IN CASE OF CONTRACTING A CONTAGIOUS DISEASE AND THE EFFECTS ON THE EMPLOYMENT RELATIONSHIP



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In view of the current circumstances in Mexico due to the spread of the new virus COVID-19, and in the absence (to the date) of a declaration of suspension of services issued by the competent authorities, we issue the following informative note in order to clarify the obligations contained in the Mexican Federal Labor Law regarding employees who have a contagious disease, such as COVID-19.

Based on the aforementioned, we must remember that the Mexican Federal Labor Law establishes certain cases in which the effects of the employment relationship between the employer and the employee can be suspended. Specifically, for the case that concerns us, article 42 of such law establishes that the contagious disease of an employee is a legal cause for the suspension of the employment relationship:

"Article 42.- The following are causes of temporary suspension of the obligations to provide the service and pay the salary, without liability for the worker and the employer:

I. The contagious illness of the worker; "

In addition to the aforementioned, such cause is reinforced by the Mexican Federal Labor Law by providing the obligation for employees to communicate the diseases that they have at the moment they become aware of them, as is clearly stated in article 134 - section XI of the Mexican Federal Labor Law:

"Article 134.- The obligations of the employees are: ...

XI. Inform the employer of the contagious diseases they suffer, as soon as they become aware of them; "

This is intended to prevent the further spread of any disease, and with the intention to preserve the integrity of the workforce in the service of an employer. It is important to mention that such obligation must be prudently observed by the employees, since its non-compliance could give rise to the termination of the employment relationship by the employer towards the employee, without liability for the employer:

"Article 47.- The following are causes for the termination of the employment relationship, without responsibility for the employer: ...

VII. Compromise the worker, due to his recklessness or inexcusable carelessness, the safety of the establishment or the people who are in it;

XII. Refuse to adopt preventive measures or to follow the indicated procedures to avoid accidents or illnesses; "

In case of doubt or comment, do not doubt to contact us.

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