

Does an Employee Have to Attend a Meeting with His or Her Employer While Unable to Work Due to Illness?

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If an employee is unable to work due to illness, he or she will have no duty to work. The Federal Labour Court has, however, now considered the question of whether a sick employee is required to attend a meeting with his or her employer at the employer's location, in spite of being unable to work due to illness (Federal Labour Court, judgment of 2 November 2016, 10 AZR 596/15).

Decision

In the decision discussed here, the employee was unable to work due to illness for approximately three months. During this period, the employer invited him twice to a meeting at its location for the purposes of "clarifying his future employment opportunities". The employee refused to attend both meetings, citing in both cases his inability to work. As a result of this, the employer sent the employee a disciplinary letter. The employee demanded that the employer remove the letter from his personnel file.

In the opinion of the Federal Labour Court, an employee who is unable to work due to illness is only required to attend a meeting with his or her employer in narrow circumstances. An ill employee is only required to attend a meeting with his/her employer during the period of illness if urgent operational requirements necessitate this. The reason for this principle is that

attending such a meeting could have an adverse impact on the recovery process and thus prolong his or her absence from work due to illness.

Operational requirements of the relevant kind exist, for example, where the employee has information about important operational processes or matters and his or her failure to disclose these to the employer would make it significantly more difficult or even impossible for the employer to continue its business. Furthermore, it is a prerequisite of the above that the employer-employee meeting could not take place after the employee has ceased to be on sick leave, and it must be reasonable to expect him or her to attend such meeting. In addition, the employee is only required to personally attend a meeting at the employer's location if this is urgently required, i.e. unavoidable.

Implications for Practice

As a rule, employees are not required to attend meetings with their employer if they are unable to work due to illness. If, by way of exception, there should be an urgent reason for an employee-employer meeting, this will not, however, mean that the employee has to appear in person at the employer's location. It is thus advisable for the employer to clarify any urgent matters with a sick employee by phone or e-mail.

Legal Update

Note

This overview is solely intended for general information purposes and may not replace legal advice on individual cases. Please contact the respective person in charge with GÖRG or respectively the author Dr Hagen Strippelmann on +49 221 33660-504 or by email to hstrippelmann@goerg.de. For further information about the author visit our website www.goerg.com.

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