

Signature on Employment References

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Introduction

Employees have a right to receive a letter of reference when they leave a company. However, the parties frequently disagree over the details of the formulations used in such letters, and even formalities can represent a source of pitfalls for employers. For example, letters of reference may not contain any hidden “codes”. The Hamm Higher Labour Court was recently called upon to rule on the legality of such an encoded message in connection with a rather curious legal dispute that revolved around the way an employer affixed his signature.

Headnote

The law requires that letters of reference be personally signed and that the signatures also reflect the signors' usual practice when signing other important company documents (*Hamm Higher Labour Court, Order of 27 July 2016, 4 Ta 118/16*).

Decision

In the case at hand, an employer had, in the context of a legal settlement, agreed to give the plaintiff a positive interim letter of reference, containing an evaluation of her work performance. The resulting letter of reference did not, however, meet the expectations of the plaintiff, who then initiated enforcement proceedings (for payment of a penalty), for the managing director's signature differed from his usual signature and looked more like what a child might have scribbled. The managing director then provided a new letter of reference. This time, however, he did affix his “real” signature, but it sloped downward at an angle of about 30° from left to right. The plaintiff again demanded payment of the penalty.

The Hamm Higher Labour Court ruled in favor of the plaintiff, stating that the employer had not properly fulfilled his duty. According to the court, the scribbling did not constitute a signature; the signature on a letter of reference must reflect the writer's usual practice when signing other important company documents and the unusual “child's” handwriting did not make it possible to identify the signor. The court added that the second letter had also not been properly signed since the downward sloping signature was thoroughly unusual in legal practice and a neutral party would interpret it as a desire on the part of the signor to disassociate himself from the content of the reference. – However, precisely such secret codes are not permissible.

Comments

This decision provides a good occasion for taking a look at the formalities involved in employment references. Not only is the content often a source of dispute; the form can also give rise to problems. In order to save time and avoid aggravation, it is advisable to make sure that letters of reference comply with all formalities from the very beginning. This following check list can help:

- Proper stationery with letterhead/company logo
- Consistent layout and format (font size, etc.)
- Spell check
- Dated as of the last day of work
- Horizontal signature in usual handwriting
- Blue or black ink
- Unfolded
- Use of plastic sleeve to protect document

Obviously, the document should have no dog-ears or coffee stains. As a rule of thumb, the appearance a letter of reference should correspond to what one would

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expect of a proper application for employment. Application of the same standard is likely to save unnecessary

aggravation due to failure to pay attention to formalities when preparing references.

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 Jens Völksen on +49 221 33660-504 or by email to jvoelksen@goerg.de. For further information about the author visit our website www.goerg.com.

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