

13 Conditions for imposing FINES in a labour relation

Introduction

In the experience of the complaints section of the Labour Affairs Agency it occurs that employers impose certain fines (fine stipulation) on their employees for violations of certain rules that apply within the enterprise. These fines are subtracted from the wages.

This document will explain what a fine stipulation is and what the conditions are for using it within a labour relation.

What is a fine stipulation?

A fine stipulation is an agreement between two parties, employer and employee, wherein certain rules are agreed upon, which will lead to a fine if they are violated. These fines will be subtracted from the wages.

What are the conditions for imposing a fine?

Based on article 1613s of the Civil Code of St Maarten fines can only be imposed if the following conditions are met:

- The imposition of fines is only legal when it is embodied in writing in the labour agreement, a regulation as meant in article 1613i of the Civil Code or in a Collective Labour Agreement (CLA). A REGULATION as meant in article 1613i of the Civil Code is only valid if a copy of this regulation has been registered with the court clerk of the court of first instance and the employee has received a copy of the regulation.
- The rules concerning fines should be clear. Also the labour agreement or the regulation should state clearly the level of the fines in guilders or, if wages are stated in another currency (e.g. US\$) in that other currency.
- Verbal fine stipulations or unilaterally imposed fine stipulations are null and void.
- The maximum fine per infringement amounts to one day's wages. Besides the total of fines per week may not exceed the wage for one day. (for a five day workweek this is maximally 20 percent of the weekly wage).
- The fines deducted may not benefit the employer (directly nor indirectly), but should be deposited in some kind of charity for example.
- Article 1613t of the Civil Code also stipulates that if an employer has suffered damages by the transgression of a rule the employer cannot impose a fine and also claim compensation for the same damage.
- Agreements that are incompatible with the above mentioned regulations are void.

Employers who impose fines (or have imposed fines in the past) contrary to the rules mentioned before, should compensate the employees for the amounts involved. Since this concerns wages withheld unjustly, a delay interest, as intended in article 1614q of the Civil Code, of 50 percent at the most, is applicable.

If the employer refuses to pay back fines unjustly withheld, the employee can lodge a complaint at the Labour Affairs Agency.