

## The employer may be obliged to pay the costs of the proceedings even in the event of successful litigation

One important factor to be considered in court proceedings is undoubtedly the costs of proceedings. Procedural costs include both court expenses (e.g., state fee, costs of obtaining documentary evidence) as well as extrajudicial costs (e.g., legal expenses). The costs of the proceedings are mostly borne by both parties in the course of the litigation – both the plaintiff as the person who goes to court and the defendant against whom the action was filed.







In court proceedings, it is customary for the procedural costs of both parties to be borne by the party to whose detriment the decision was taken. This helps to ensure that the party that wins the dispute does not have to incur additional costs due to the other party's breach or invalid claim.

However, the court can deviate from the above general principle if necessary – the law allows the parties to bear the costs of proceedings in whole or in part if it would be grossly unfair or unreasonable to order the opposing party to pay the costs of the party against whom the decision was taken. Such an exception was also applied by the Civil Chamber of the Tallinn Circuit Court in its judgment in civil case 2-19-133333.

In this dispute, the employee had contested the extraordinary cancellation of the employment contract by the employer. Although the courts dismissed the employee's action, the courts pointed out that the employer was extremely inaccurate in the wording and reasoning of the notice of termination, which also led to a labour dispute. If the employer had submitted the correct reasons for cancelling the employment contract in the notice of termination, the dispute might not have reached the court and the parties would not have incurred the costs of the proceedings. It was for this reason that the circuit court did not order all procedural expenses to be paid by the employee as the party who lost the dispute, but both parties had to bear their costs of proceedings.

To avoid a situation where even if you win in court, you have to bear your costs of proceedings, we recommend that important documents related to employment relationships be prepared carefully and correctly, using legal assistance if necessary. Properly prepared and duly reasoned documents are of great help in avoiding later disputes.

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