Workx Advocaten

SUMMARY DISMISSAL: IMMEDIATE, BUT ONLY UNDER STRICT CONDITIONS

With a summary dismissal (ontslag op staande voet), employment ends immediately: without a notice period, without permission from the Employee Insurance Agency (UWV) and without the involvement of the subdistrict court. It is the most severe form of dismissal and is therefore subject to strict rules (Article 7:677 of the Dutch Civil Code).

01. THREE REQUIREMENTS, AND ALL THREE MUST BE MET

An urgent reason

Conduct or characteristics of the employee that mean you cannot reasonably be expected to continue the employment.

FOR EXAMPLE
- theft or fraud
- threats or assault
- breach of confidentiality
- deliberately false information when applying
- persistent refusal to work

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Dismiss immediately

Without delay, counting from the moment the person authorised to dismiss knows of the reason.

You may hear the employee and have the facts investigated, as long as you act promptly.

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State the reason immediately

The employee must understand straight away why they have been dismissed. A very short time between the dismissal and the explanation is allowed; a vague description is not.

Whatever you give as the reason, you must later also be able to prove.

ALL **CIRCUMSTANCES COUNT**

Whether a reason is urgent enough depends on the whole picture: the nature and seriousness of the conduct, how long someone has been employed, the position, performance to date, personal circumstances such as age, and what the dismissal means for the employee.

Similar situations can therefore turn out differently. Serious consequences for the employee do not necessarily rule out an urgent reason.

EARLIER CONDUCT **AND RULES**

Earlier missteps can be taken into account, especially if you have already spoken to the employee about them. If so, also mention them when you dismiss the employee, so that it is clear they count.

Record warnings in writing and apply clear rules of conduct consistently. If the employee knew the rule and what a breach would mean, the case for an urgent reason is stronger.

02. WHAT TO DO AFTER THE DISCOVERY

Immediately

Start investigating the facts straight away.

Quickly and carefully

Check the facts and hear the employee: that way you also learn of any personal circumstances.
It is advisable to suspend the employee during the investigation.

Decision

Unconditional dismissal, with the reason given immediately.

The same day

Confirm the dismissal and the reason in writing, by email and by letter.

CONSEQUENCES FOR **THE EMPLOYEE**

- Pay stops immediately.
- No notice period applies.
- In principle no unemployment benefit (WW).
- Usually no transition payment.

It also works the other way round: an employee may terminate the employment contract with immediate effect if the employer gives them an urgent reason to do so, for example by paying wages late.

IF THE EMPLOYEE **CHALLENGES IT**

- Within two months, the employee can ask the subdistrict court to annul the dismissal.
- If that succeeds, employment continues and you must still pay wages for the period in between, possibly with the statutory increase.
- Instead, they can ask the court for fair compensation, and in addition possibly for a transition payment and compensation in lieu of notice.

COMMON **MISTAKES**

Waiting too long. If you let the investigation slide, you are no longer dismissing 'immediately'.

Acting too fast. Without a thorough investigation of the facts, the dismissal may not hold up.

Vague or overly strong wording. Describe factually what happened and avoid loaded terms such as 'theft': you will have to prove whatever is in the letter.

Not stating multiple facts properly. Write that each of them on its own, and all of them together, constitute the urgent reason.

Conditional dismissal. Do not link the dismissal to reaching a settlement within a set period; negotiate only afterwards.

Not hearing the employee. You may then miss their side of the story and their personal circumstances.

Based on the statutory rules on summary dismissal and on legal practice
This document does not constitute legal advice and is for illustrative purposes only.

NEED MORE TIPS **OR ADVICE?**
We are happy to help. Get in touch with us!