

FINLAND

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Supreme Court 2017:81: Causation, A's failure to give testimonials or payslips

A, who held a position as chairman of the board of directors of X Oy, was convicted of violating employment contract duties, as he had not given his employees B and C testimonials or payslips

Wage guarantee system and employee's claim

- According to the Wage Guarantee Act, employees have a right to receive their employment-based receivables through state resources if their employer is not able to pay them due to insolvency
- According to B and C, they had not been able to apply for a wage guarantee, because they had received neither payslips nor testimonials. They filed a claim against A, seeking compensation for their loss, which was caused because they had not received their employment-based receivables from the wage guarantee system

Judgment of Supreme Court: Background

- Applications for a wage guarantee shall be made on a standard form approved by the Ministry of Labour. The applicant is to deliver the completed standard application form to the relevant wage guarantee authorities within the period laid down by law
- With respect to the amount and grounds for the wage guarantee that has been applied, the wage guarantee authority had wide duty and rights to clarify the facts. Providing payslips or testimonials were not prerequisites for receiving wage guarantee

Judgment of the Court: No special documents needed

- The fact that A had not given the requested payslips or testimonials may have influenced that B and C had not applied their wage guarantee receivables
- Even though C would have received incorrect information regarding the documents which are prerequisites for receiving wage guarantee, the possible incorrect understanding could not become the detriment of A

Judgment of the Court: No causation

- A had been convicted of a minor offense because he did not give his employees the documents, but receiving the wage guarantee did not require delivering the documents referred herein
- Therefore, A's failure to give the documents was not a cause for the damage, but the damage was caused by the fact that B and C had not applied for a wage guarantee. Accordingly, the claim for damages had to be dismissed

Discussion

- The lower courts had condemned A to pay the claimed damages
- In the Supreme Court, all members of the Court held that the claim should be dismissed. The majority (3) dismissed the claim based on a lack of causality. The minority (2) would have dismissed the case on the grounds that the damage caused to B and C was not foreseeable