



Abogados & Notarios

VACATION REGULATIONS IN COSTA RICA

VACATIONS UNDER THE COSTA RICAN LABOR CODE - EMPLOYMENT AND LABOR LAW COSTA RICA - COSTA RICA CORPORATE LABOR LAW - VACATION REGULATIONS IN COSTA RICA - By: Rogelio Navas Rodríguez, Esq., Costa Rica Labor Law Attorney -

Under the Costa Rica Labor Code, all workers are entitled to two weeks of vacation per every fifty weeks of continuous work. This means that it is after completing fifty weeks of labor that the employee accrues the right to enjoy two weeks of vacation. Then the employee must complete another period of fifty weeks of work in order to accrue another two weeks of vacations, and so on.

CAN MORE VACATION TIME BE GRANTED TO EMPLOYEES? The above mentioned two week vacation period must be understood as the minimum established by law. If the employer wants to grant additional vacation days to the employees, it is possible; however, those extra days are likely to become a vested right and, thus, mandatory for the employer within that specific employment relationship.

WHEN MUST EMPLOYEES BE SENT ON VACATION OR ALLOWED TO ENJOY VACATION? As for when the employee must be allowed to enjoy his or her vacation time, the Costa Rican Labor Code provides that vacation must be enjoyed within the next fifteen weeks following the date of completion of the fifty weeks of continuous work.

WHO DECIDES WHEN AN EMPLOYEE GOES ON VACATION? It is important to keep in mind that it is the employer who decides when the worker goes on vacation, meaning that the employee is not entitled to take his or her vacation time when he or she wants to. In practice, it is not unusual to see employers and employees arrange on when the employee goes on vacation; nevertheless, it is not less common to see employers deny the employee's request to go vacation on certain dates if the employer's needs should not allow it.

CAN THE VACATION PERIOD BE SPLITTED? It is also important to know that the employee must be allowed to enjoy his or her vacation period continuously. Only by means of a mutual agreement between the worker and the employer the vacation period can be divided in two. In practice, it is usual for the parties to agree to split the vacation period in more than two periods, and our authorities usually do not raise any issues as it is understood that such an agreement between employer and employee benefits both parties.

IS IT POSSIBLE TO GRANT VACATION TIME IN ADVANCE? We are frequently asked if the employer can grant vacation days in advance, that is, before completion of the respective fifty week of work period. Concerning this matter, the first thing to remember is that vacation days must be enjoyed uninterruptedly. Additionally, and maybe even more important, is that an employee does not accrue any vacation time before completing said fifty weeks of work. However, the above does not mean that the employer cannot allow the



employee to take a few vacation days before completing the fifty week of work period; but if that is allowed to happen, the employer assumes certain risks. For instance, if the employee resigns prior to completing the fifty week of work period, the vacation days that were granted cannot be validly deducted from the employee's severance payment.

CAN VACATION DAYS BE USED TO COVER SICK LEAVES OR AS SUSPENSION FROM WORK? Another very important subject in connection with vacation, is that vacation days cannot be used as a disciplinary action. An employee should not be sent on vacation, for instance, while a fault or offense is investigated. The correct action by the employer in such cases would be suspending the employee.

Likewise, vacation days should not be used to cover a sick leave. Such practice is not legal nor recommendable as sick leaves have their own regulations.

HOW IS VACATION TIME INDEMNIFIED IN CASE OF RESIGNATION OR TERMINATION? We are also commonly asked about what happens if the employee resigns or is terminated before completion of the then-current fifty week of work period. In those cases, the employer must indemnify the employee by paying one day of salary per each complete month of work.

When the employment relationship ends after completion of a fifty week of work period, but before having the employee enjoyed all of his or her accrued vacation time, then the employer must indemnify the employee for not enjoyed vacation days and, on top of that, the employee must be paid one day of salary for each complete month of work of the period in which employment was terminated.

IS IT POSSIBLE TO PAY FOR VACATION TIME INSTEAD OF GIVING VACATION TIME? Always keep in mind as well that Costa Rican Labor Law forbids to pay for vacation time in order to avoid granting the vacation period. Vacation must be enjoyed and only in very specific cases established by Law, vacation time can be traded for payment.

CONTACT US: If you should have any concerns or questions regarding vacation time in Costa Rica, do not hesitate to contact us at navas@costarica-law.com.