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La validation des informations fournies (exactitude, fiabilité, pertinence par rapport aux principes de prévention, etc.) est du ressort des auteurs des articles signalés dans la veille. Les informations ne sont pas le reflet de la position de l'INRS.

Les liens mentionnés dans le bulletin donnent accès aux documents sous réserve d'un abonnement à la ressource.



Veille juridique RPS

La non-validité du licenciement d'un salarié dénonçant des faits de harcèlement moral, même non avérés, en dehors de toute mauvaise foi

[Cour de cassation, chambre sociale, 19 octobre 2022, n° 21-16.361](#)

Un salarié engagé en qualité de responsable du contrôle interne par une caisse d'assurance maladie a dénoncé auprès du directeur des ressources humaines des agissements dont il s'estimait victime de la part de son supérieur hiérarchique. Il a ensuite été placé en arrêt maladie et a été licencié.

Estimant que son licenciement était basé sur sa dénonciation de faits de harcèlement moral à son encontre, le salarié a saisi la juridiction prud'homale pour en obtenir la nullité.

La Cour d'appel rejette la demande du salarié. Les juges ont considéré que bien que le salarié pouvait revendiquer un certain positionnement, pour autant, les conditions dans lesquelles il a développé cette demande par l'évocation d'un harcèlement moral non établi et la mise en cause de ses collègues de nature à ce que ces derniers la vivent comme des menaces à leur encontre suffisaient à justifier le licenciement qui reposait ainsi sur une cause réelle et sérieuse.

La Cour de cassation censure l'arrêt d'appel en rappelant que le salarié ne peut être licencié pour avoir relaté des faits de harcèlement moral, sauf mauvaise foi. Or, en l'espèce, le courrier notifiant le licenciement faisait référence à la lettre par laquelle le salarié avait relaté des agissements de harcèlement moral. En outre, la mauvaise foi ne peut résulter de la seule circonstance que les faits dénoncés ne seraient pas établis ; de sorte que le licenciement était nécessairement nul.

Autrement dit, la Cour de cassation rappelle que le salarié qui relate des faits de harcèlement moral ne peut être licencié pour ce motif, sauf mauvaise foi, laquelle ne peut résulter de la seule circonstance que les faits dénoncés ne sont pas établis.

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