

Dutch employee fired by U.S. firm for shutting off webcam awarded €75,000 in court

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A remote employee of a U.S. business who was fired for refusing to leave his webcam on while he was working was awarded roughly 75,000 euros by a Dutch court for wrongful termination. The resident of Diessen, Noord-Brabant, was hired by the the Rijswijk branch of Chetu Inc., a software development company headquartered in Miramar, Florida.

The employee began working for Chetu in January 2019, and said he was earning over 70,000 euros per year in salary, commission, variable bonus, and holiday allowance. He worked for the American firm for over a year and a half, but on 23 August he was ordered to take part in a virtual training period called a "Corrective Action Program." He was told that during the period he would have to remain logged in for the entire workday with screen-sharing turned on and his webcam activated.

The telemarketing worker replied back two days later, "I don't feel comfortable being monitored for 9 hours a day by a camera. This is an invasion of my privacy and makes me feel really uncomfortable. that's the reason why my camera isn't on. You can already monitor all activities on my laptop and I am sharing my screen." He was summarily fired on 26 August, for "refusal to work" and "insubordination."

The plaintiff brought the case to the Zeeland-West Brabant court in Tilburg a few weeks later, saying "there was no urgent reason given to justify the immediate dismissal given." He alleged that the termination was disproportionate, and that the demand to leave his webcam turned on was unreasonable, and contravened data privacy rules.

The court agreed that the termination was not legally valid. “The employer has not made it clear enough about the reasons for the dismissal. Moreover, there has been no evidence of a refusal to work, nor was there a reasonable instruction. Instruction to leave the camera on is contrary to the employee's right to respect for his private life,” the court said.

Chetu argued instead that the webcam was no different than if the worker had been present in the office being observed by management. The sub district court considered it unlikely that Chetu intended to store the webcam images, and said data privacy was not the relevant issue.

Instead, it cited Article 8 of the European Convention on Human Rights, and a European court ruling that made it clear that, “Strict conditions are attached to observing employees.” The demand to keep the camera activated was an unreasonable intrusion on the plaintiff's privacy rights, the court ruled.

The court ordered Chetu Inc. to pay the man over 2,700 euros in unpaid salary, 8,375 euros for wrongful termination, 9,500 euros in worker transition assistance, and 50,000 euros in additional compensation. On top of that, the company has to pay the dismissed worker for 23 vacation days that were not taken, the 8 percent statutory holiday allowance, and possibly an additional penalty for failure to provide a payslip for August. Chetu also has to cover about 585 euros for court filing costs and the plaintiff's legal fees. Chetu will also be responsible for interest fees for late payment.

In the ruling, issued at the end of September and published on Wednesday, the court also declared the non-compete and confidentiality clauses in the employment contract as being invalid. In civil cases in the Netherlands where the judgement is over 1,750 euros, an appeal can be filed by either side within three months of the court ruling.

Less than a week after the plaintiff was fired, the Rijswijk branch of Chetu Inc. was deregistered from the Chamber of Commerce and shut down on 2 September, records show. The branch was first registered in the Netherlands on 1 June 2013 with the capital declared at 10 million euros. Atal Bansal was listed as the director of the Dutch branch. He is the founder and CEO of the company in the U.S., according to Forbes.