

Legal Alert

Quarantine and payment of office lease rent. Supreme Court Ruling Rol N° 85.755-2021.

1. On July 28, 2022, the Supreme Court issued a judgment in a lease termination lawsuit for non-payment of rent, in which it established that the lessee of a commercial office located in the Santiago district, which could not be used between March and August 2020 due to the quarantine imposed by the health authority as a result of the Covid-19 pandemic, was released from its obligation to pay the lease rent for the duration of such restriction.
1. The Supreme Court considered that the limitation for the development of commercial activities as a result of the sanitary restrictions, constitutes an anomaly of the thing, of a legal nature, which integrates the factual assumption referred to the quality of the leased thing referred to in article 1932 of the Chilean Civil Code. Therefore, being a risk related to the thing, that according to the Supreme Court is the responsibility of the lessor, as owner of the office, allows the lessee to suspend the payment of rent.
2. The Court pointed out that the interruption in the use of the thing is assimilable to its destruction, since the aptitude of the thing that permitted the completion of its targeted purpose when contracting is lost, except for a temporary impossibility. Thus, between March and August 2020, the leased property did not meet the necessary conditions to be used as an office, a defect of a legal nature that temporarily prevented its use, so in accordance with article 1932 of the Civil Code, the lessee was entitled to be released from paying rent for the time that the sanitary measure was in force.