



# CAMMINO DIRITTO

Rivista di informazione giuridica  
<https://rivista.camminodiritto.it>



## EMPLOYEE INVESTIGATION: IS IT FAIR IN CASE OF WORK PERMIT?

---

*Admit it: Who would not like to have a work permit to focus on his own business?*

---

di **Annalucia Contangelo**  
IUS/07 - DIRITTO DEL LAVORO  
Articolo divulgativo - ISSN 2421-7123

Direttore responsabile  
**Raffaele Giaquinto**

Publicato, Lunedì 11 Giugno 2018

However, pay attention to the way you use your permits and, in particular, to the ones according the law 104/92\*: in fact, if you go elsewhere with the excuse of looking after a disabled relative, maybe for your personal scopes or to have fun, **your boss can fire you.**

In addition to that: he may also employ a **detective** to spy on you, in order to understand whether you are benefitting from your permit in a legitimate way or not.

As a confirmation of these principles, the Court of Appeal stored a famous verdict a few years ago (**Court of Appeal, verdict n. 4984 of 4.03.2014**).

So, the employer can tail the employee with the help of a detective. This hidden supervision, even if it is inappropriate, cannot be considered – according to the Court – a **privacy violation**. Moreover, in a trial, the employer can avail of the statements of eventual witnesses who can confirm having seen the employee in specific circumstances that are not linked to the handling of the invalid sibling.

But in one of our previous articles, have we affirmed that there is a ban for the employer to spy on an employee?

Yes, there is a prohibition, and it is expected by the **Charter of the Workers (Law n.300/70)** however, it refers only to the work places and it is applied only when it is necessary to control the real working activity.

Contrariwise, the call for a detective can only be done outside the productive unit, when its scope is to protect the business estate, that is to say to verify whether the employee is carrying out his duties according to the work contract. So, the supervision due to the certainty about the proper usage of the permits of the law “104” (of 1992) does not refer to the good execution of the job itself, because it is done outside the working hours and in a moment of suspension from work.

It is evident that a “**spy-detective**” is legitimate. Although it is good to precise that the illegitimate use of the permits may also have dangerous penal consequences, but this issue will be discussed shortly.

\* The Law 5th February 1992 n.104, even known as law 104/92, is the legislative reference “for the assistance, the social integration and the rights of disabled people.”. The principal addressees are the disabled but also the people who live with them. In fact the assumption is that the autonomy and the social integration will be reached ensuring

appropriate support to the disabled person and his family. This support may be in the form of services of personal or familiar help, but it can also be intended to be psychological, of educational psychology or technic help.

---