

665

9 January 2024

**We have a person who on May 5 resigned from the company, receiving his acquired rights. Then on October 24 he re-entered, but only worked 1 day, which was even reported to the Social Security System. Then from December 5 to December 21 he worked 3 days a week, receiving on the 21st his salary, and the proportion of the Christmas salary including the day worked in October. The issue is that this person is going to start working permanent, part-time on 9/1/2024. What will be his date of entry? 10/24/2023? Because, if a Social Security certification is requested, it will show that data, and there were not 60 days between that day worked and Dec. 5. Should I report it that way in the DGT-3 form or DGT-4 form, or can it be said that he was mobile, and that 9/1/2024 is when he enters with a contract for indefinite time?**

You should report him on the DGT-3 form (which is used for permanent staff), as an indefinite-term employment contract, with an entry date as of 10/24/2023.

You could claim that the workday in October and the days worked in December were a temporary contract, as detailed in article 32 of the Labor Code; and under that understanding, register it in the DGT-3 form with a start date of 9/1/2024, as an indefinite-term employment contract. However, there is a risk that the employee may allege (in

the future) that his work in October and December 2023 was of a specific work or service type; in which case, it should be considered that in the case consulted the two-month period between hiring and re-hiring was not exceeded (art. 31 of the Labor Code).