

April 2009

## Tribunal Claims Increase

The much delayed statistics from the Tribunals Service indicate a 43% increase in employment claims in the period 1st April 07 to 31st March 08 from the previous year.

The majority of claims related to equal pay (62,706), working time (55,712) and unfair dismissal (40,941). However, most notably, age discrimination claims increased from 972 (2006/7) to 2,949 (2007/8).

## Facebook Related Dismissal

An Essex teenager has been dismissed by her employer after describing her office job as 'boring' on the social networking site Facebook.

The firm was of the view that "Her display of disrespect and dissatisfaction undermined the relationship and made it untenable."

However, other employers considering such action should carefully check their computer use and disciplinary procedures before acting or otherwise risk an unfair dismissal claim!

## Age Bar Not Justified

Preventing potential applicants over 36 from training as an air traffic controller has been held to be direct age discrimination that was incapable of objective justification.

Various arguments had been advanced by the employer that an age bar was needed including ensuring safety and the need for a reasonable period of post-training service. However, the arguments were neither necessary nor proportionate to the objectives being pursued by the employer. The employer had also failed to consider less discriminatory alternatives.

## A Summary of Significant Employment Changes This Month

**1st April**—Minimum holiday pay entitlement for full time workers increases from 4.8 weeks to 5.6 weeks (24 to 28 days for most workers). However, depending on how your contracts are worded, there may be no increase if you already pay for public and bank holidays. Check your contract wording!

**6th April**—The much loathed statutory dispute resolution procedures are repealed for new disputes but ongoing disputes will generally still need to be dealt with under the old rules. If your rules complied before, then they will probably continue to be valid. However, consider simplifying your internal procedures to increase flexibility and consider specifically incorporating the new ACAS code of conduct.

The right to request flexible working in relation to children up to 16 also comes into force.

Significant new powers to enforce the minimum wage are introduced with new civil and criminal penalties for those who do not comply also being introduced.

The weekly rate of Statutory Sick Pay increases to £79.15 (up from £75.40). Statutory Maternity, Paternity and Adoption Pay increases to £123.06 (up from £117.18).

Certain Income Tax and National Insurance changes have also been made (full details can be found on the HMRC website).

## Solicitors Ordered to Pay Compensation for TUPE Failure

Barnetts solicitors were left with unfair dismissal and failure to consult claims after winning the business of Britannia Building Society from a rival firm, Lees Lloyd Whitley. A tribunal found that the employees of Lees assigned to the Britannia contract should have transferred to Barnetts under the Transfer of Undertakings Regulations but Barnetts failed to consult and otherwise apply the TUPE rules of procedure.

## Is Renting New Premises a 'Reasonable Adjustment'?

The Employment Appeal Tribunal has **not** ruled out the possibility that it might be reasonable for a business to rent additional ground floor office space to accommodate disabled employees under the Disability Discrimination Act under certain circumstances.

However, the trainee legal executive who brought the case failed to persuade the EAT that it was reasonable for the particular firm of solicitors to rent adjoining ground floor premises when she became unable to use the stairs. There was no evidence that the adjoining premises were even available for rent and there was some evidence that the employee would not have returned to work in any event.

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