

Employment Club Update



December 2009

Philosophical Belief - Climate Change and Mediums!

The Employment Equality (Religion or Belief) Regulations 2003 prohibit workplace discrimination and harassment on the grounds of religion and belief. Following an amendment to the regulations in 2007, 'Belief' is now defined as any "religious or philosophical belief".

In *Grainger v Nicholson* the Employment Appeal Tribunal recently held that a philosophical belief needed to be a "weighty and substantial aspect of human life and behaviour" which has "a similar status or cogency to a religious belief". It therefore held, in principle, that an employee who was dismissed allegedly because of his deeply held belief in climate change could potentially bring an action under the Regulations. The matter was referred back to a Tribunal to decide whether the Company had actually discriminated as a matter of fact.

In another claim under the Regulations, Mr Power, a Trainer with the Greater Manchester Police, is hoping to claim that he was dismissed due to discrimination on grounds of his philosophical belief in psychics, mediums and contact with the dead which he believed could help in solving criminal investigations. In the case, Judge Russell said "I am satisfied that the Claimant's beliefs ... are worthy of respect in a democratic society and have sufficient cogency, seriousness, cohesion and importance.."

A later tribunal hearing will decide whether the dismissal was due to Mr Power's belief, or the foisting of that belief on others.

Claim for 'Stigma' Losses

The Court of Appeal has held that an employee who was made redundant for reasons related to his race and who subsequently brought a race discrimination claim was entitled, in principle, to claim compensation for the 'stigma' associated with bringing the claim.

It was alleged that the Claimant was unable to get a job in the financial services sector in the future because he had been forced to bring a race discrimination claim against his former employer, Abbey National.

He was entitled to pursue the claim despite the fact that the stigmatising loss was caused by a third party.

T-Mobile Data Theft

An ex-employee of T-Mobile who stole and sold T-Mobile customer data to rival firms for substantial sums may be prosecuted following further investigation by the Information Commissioners Office ("ICO"). 'Millions' of records were sold to brokers for onward transmission to rival phone companies.

The announcement coincides with proposals from the Ministry of Justice to increase the maximum fine for serious breaches of the law by data controllers to £500,000. It is understood that the ICO also wants terms of imprisonment for the most serious breaches of data protection legislation.

Jail for Lying to a Tribunal

A manager of a car hire firm who forged a contract of employment and a warning letter about an employee before presenting them in evidence to an employment tribunal was given a 4 month prison sentence after admitting perverting the course of justice.

He forged the documents and even tried to forge the employee's signature to prevent her from obtaining £1,750 in compensation. The employee was later awarded £29,500 by another tribunal.

Discrimination Award Increases

The Employment Appeal Tribunal has confirmed that damages for injury to feelings in discrimination cases should be increased in line with inflation as follows:-

Lower Band: Up to £6,000 (formerly £5,000) - 'less serious cases'

Middle Band: £6,000 to £18,000 (formerly up to £15,000) - 'serious cases which do not merit an award in the higher band'

Higher Band: £18,000 to £30,000 (formerly up to £25,000) - 'most serious'

Territorial Jurisdiction

The Court of Appeal has held that a seaman based in Suffolk, working fortnightly shifts on a vessel registered in Nassau, travelling between the Channel Islands and Portsmouth, for a Company based in Guernsey was employed where his duty began and ended (i.e. in the UK).

He was therefore entitled to bring a claim for unfair dismissal. It was irrelevant to the claim as to where the ship and the Company were legally registered.

These notes are for guidance purposes only. We believe the contents to be correct but it should not be taken as sufficiently accurate or full to apply in any specific situation without first referring to us. We would be pleased to advise on any specific issues or problems.

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