

Moon & Co

Solicitors

Employment Newsletter

Highlights March 2007

Welcome to our e-newsletter. This is a brief look at new cases and employment related matters, which are likely to be of interest to many. If you want more information or have specific concerns phone me on **01233 714055** or e-mail.

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Holidays what holidays?

Employees are entitled to 4 weeks paid leave each year. Therefore for someone working a 5 day week this is 20 days paid holiday but employers could include in this the 8 bank holidays. Now the entitlement will rise to take account of this. So it will rise in two stages, from 20 to 24 days on 1st October 2007, and from 24 to 28 days on 1st October 2008. For those who work part time the increase is proportionate. However for those that work more than a 6 day week there will be no extra increase. Employers can still require employees to take the extra days on the bank holidays or on other days.

Is he yours?

Is your agency worker really your employee? For several years Employment Tribunals have been finding more and more cases of an agency worker being the employee of the end user. This issue usually comes up when the end user doesn't want the person any more and the individual wants to make a claim of unfair dismissal.

However two cases recently heard by the Employment Appeal Tribunal (EAT), the forum for hearing appeals from Employment Tribunals has decided that the person was not working under an implied contract of employment because there was a lack of mutuality of obligation. The EAT also offered guidance to tribunals on when a contract of employment should be implied which may reduce the number of cases where an agency worker can make a claim against the business he is providing services to.

Let it be a warning.

Can an employer rely on an expired warning when dealing with a disciplinary issue? In a case heard recently by the EAT it had to consider this situation. Three weeks after a final written warning had expired an employee committed a similar offence (with four colleagues) and was dismissed. The other employees were not dismissed. The EAT decided (though it was a finely balanced point) that in deciding whether an employer had acted fairly in a dismissal a tribunal must not take any account of an expired disciplinary warning.

Rates Rise

From April 2007

- standard statutory maternity, paternity and adoption pay rises from £108.85 to £112.75 per week
- standard statutory sick pay will rise from £70.05 to £72.25 per week

Specialist advice should be obtained before taking or refraining from taking action based on comments in this newsletter, which is only intended as a brief note.

E-mail me to cancel at any time.

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