

17<sup>th</sup> February 2010

## **Employers Get Clear Guidance on Holidays**

A ruling by the Employment Appeal Tribunal has given employers a clearer picture of the limits that they can place on the holiday rights of employees.

A number of conflicting decisions in this area over recent years had led to confusion. However, following the recent case of Lyons v Mitie Security Ltd, the Employment Appeal Tribunal (EAT) held that an employer can insist on an employee complying with conditions attaching to their holiday entitlement, even if this means that the employee loses their entitlement to annual leave and to holiday pay.

Mr Lyons's contract of employment stated that, wherever possible, an application for holiday should be submitted at least four weeks before any holiday started, though applications for holidays at shorter notice would be considered "on their merits and subject to staffing requirements".

Shortly before the end of the holiday year, Mr Lyons asked to take his unused holiday entitlement but his request was refused on the basis that he had not given four weeks' notice. He resigned and brought a claim for unfair dismissal and for holiday pay. Mr Lyons argued that his holiday entitlement was guaranteed by the Working Time Regulations and that the notice requirements effectively prevented him from taking that guaranteed entitlement before the end of the holiday year. This claim was first heard by the Employment Tribunal and when it was dismissed, the employee appealed to the EAT.

The EAT upheld the tribunal's decision and confirmed that employers can legally make the right to annual leave conditional upon the employee complying with reasonable conditions such as the giving of notice.

Said Richard Stephens, partner in the employment department with Enfield based Solicitors Vanderpump & Sykes: "This area of the law has been grey for some time, so this judgment will be welcomed by all employers since it makes it clear that they are entitled to impose reasonable conditions on employees' annual leave".

"It means that the right to statutory leave is not absolute. However, employers must act reasonably and they could be in trouble if they act in such a way as to deny holiday entitlement that has been properly requested."

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