

Dealing with Festive Concerns



The High Court has just ruled on a case involving violence on a work's Christmas night out giving guidance on who is at fault. Here, we take a look at the case along with other issues which can accompany the festive season.

Employer was not liable for director's assault

In *Bellman v Northampton Recruitment*, a group of colleagues had attended a Christmas party arranged by the employer at a golf club. After the party had finished, some of the employees went to a local hotel and continued drinking. A row broke out and a director punched a manager so hard it left him with a brain injury. The manager undertook to sue the employer rather than the director personally and so the High Court had to decide whether the director committed the act "in the course of his employment". It found that because the act took place at a private drinking session after the work's party, and not during the party itself, the employer was not liable for what happened.

Lateness and absence due to bad weather

Severe snow, wind or rain during winter months can cause havoc with an employee's journey into work and can mean that they are late or miss an entire day. Generally, an employer does not have to pay an employee for time spent not at work because of travel problems caused by bad weather. It may be possible, however, for arrangements to be made to preserve payment, for example, agreeing short notice annual leave; working from home; using up lieu time etc. However, if the workplace cannot open because of bad weather, the employer must still pay employees as normal unless there is a lay off clause in the contract of employment which provides for a reduction in pay. Statutory guarantee pay may be payable in this situation.

Christmas gifts

"Secret Santa" is a traditional way of giving Christmas gifts at work; each person buys a gift for another but keeps their identity hidden. However, there is always the chance for complaints of bullying or harassment because of the type of

gift received and so rules should be laid down for people to think before they buy. Allowing people to decline the offer of taking part will see that no-one feels forced to spend money at what can be an expensive time.

On a slightly different note, gifts or bonuses from employers can be a bone of contention when the employer looks to withdraw them if they have been consistently provided for years. The extra £50 in the Christmas pay packet can become an implied term of employment and employers may face problems if they try to remove it.

The content of this briefing is correct at the time of publishing.

Summary

- Employers have a duty of care to their employees and should bear this in mind when organising a Christmas party. Acts occurring at the party may well be taken to be done in the "course of employment."
- Setting some ground rules for parties and other festive events such as gift giving can mean that everyone can enjoy the celebrations.
- Check the employee's contract first when it comes to deducting money for absence or lateness to see if there is any contractual right to payment.

Please contact the 24 Hour Advice Service for advice on your specific situation before acting on the information in this publication.