

This Week in Employment Law

Refusing Postponement Could Be Unfair Dismissal

A recent case, *Talon Engineering Limited v Smith*, saw an employee win their claim for unfair dismissal after the employer refused a request to postpone a disciplinary hearing and proceeded with her dismissal. We take a closer look at the case below:

- The employee, Ms Smith, was found to have sent emails to a client using offensive language to describe a colleague.
- The employer suspended Smith for a period before inviting her to a disciplinary hearing, however she asked for the meeting to be postponed for 2 weeks to allow her trade union representative to attend.
- The employer refused this request and proceeded to hold the hearing, which Smith did not attend, ultimately deciding to dismiss her for gross misconduct.
- An employment tribunal and the Employment Appeal Tribunal both ruled that whilst the employer had shown a potentially fair reason for dismissal, their decision was procedurally unfair because it was unreasonable not to postpone the disciplinary hearing under the circumstances.
- This shows employers must consider postponing a hearing, due to the unavailability of a companion, unless there is a really good reason not to.

Woman Told to ‘Clean Toilets’ Settles Discrimination Case

A female council worker, who was urged to clean the work toilets and told they could do with a “woman’s touch”, has settled her sex discrimination case. Ms Douglas, who also claimed that she was denied overtime in favour of her male colleagues has received £25k from her employer.

Did you know?

Staff must not be discriminated against due to their sex as this is a protected characteristic under the Equality Act 2010. Particular attention should be paid to jokes or throwaway comments that many consider to be ‘workplace banter’, as this can easily lead to discrimination claims.

Asking ‘Pay Question’ Could Increase the Gender Pay Gap

The Young Women’s Trust charity has said that the practice of asking job applicants what they currently earn could be partly to blame for the gender pay gap. The charity claim that employers may use this to frame their salary offers, unintentionally trapping many women in low paid employment.

Did you know?

The law on equal pay means that women and men must be paid the same for doing the same job. Smaller companies with at least 50 members of staff may soon have to publish their gender pay gap reports to increase transparency around pay.

Flexible Working Could Encourage Job Applicants

Chair of the CIPD, Peter Cheese, has indicated that employers who take a positive approach to flexible working could see an increase in job applicants. This comes in the light of a recent YouGov study that shows the number of staff working the 9am-5pm has declined, with many now favouring flexible roles.

Did you know?

All employees have a right to make a flexible working request as long as they have worked for their employer for 26 weeks. Employers have a duty to consider these requests and should only refuse them if they have a valid business reason for doing so.

Carrying out a disciplinary meeting can be a sensitive matter for many employers. However, even when you feel you have sufficient evidence to dismiss an employee, a failure to follow correct procedure can render the dismissal unfair. If you would like further advice from Croner on dismissal procedures give us a call using our 24 hour Advisory Service.

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