

Religious Request Not in “Good Faith”

In the know

The Employment Tribunal has found that an employee whose request for annual leave to attend religious festivals was turned down was not discriminated against because of his religion.

Employee's Annual Leave Request

An Italian Roman Catholic employee had, for many years, taken five consecutive weeks' leave in the summer to return to his native country, Sardinia, to attend a series of religious events.

After a change in management, he was told that a holiday of this length would no longer be possible because it was unfair to his colleagues. He raised a grievance which was rejected, and he was told he could have a maximum holiday of 15 working days. He then made a claim to the Employment Tribunal that the refusal was less favourable treatment because of the manifestation of his religion and therefore an act of religious discrimination.

Employment Tribunal Decision

The decision notes that the employer agreed to participation in religious festivals could represent a manifestation of a religious belief. The particular manifestation that was in question was the employee's attendance at a series of festivals which occur between the end of July and the beginning of September each year. The Tribunal took into account that the employee's attendance at the festivals was entirely dependent on the views of his family and friends. He did not invariably attend the same festivals each year. In one year, he only attended 9 out of the 17 festivals he claimed he always attended.

The Tribunal found that an asserted religious belief requiring attendance at a series of religious festivals between the

dates stipulated is made in good faith. Particularising which events to attend was a matter for family consultation and that confirmed to the Tribunal that the employee's motive for wanting the lengthy period of time off work was related to family arrangements rather than religious beliefs. Therefore, no discrimination had taken place. The employee appealed to the Employment Appeal Tribunal.

Employment Appeal Tribunal

The Employment Appeal Tribunal agreed with the Employment Tribunal's decision. It concurred with the decision on the 'good faith' element. The reason for the leave request was not genuinely due to his religious beliefs; the motivation was his desire to spend time with his family in Sardinia.

Croner Tips

- **Employers should consider annual leave requests like the one in this case on an individual basis. Is the reason for the request really related to the employee's religion, or is there another reason that takes precedence to the religious element?**
- **Where an annual leave request is related to religion, it may well mean that an employer must be more flexible with its usual annual leave restrictions.**

Please contact the Business Support Helpline for advice on your specific situation before acting on the information in this article.