

Holidays over the Christmas period

December 2019

Employers must be wary not to impose excessive sanctions in response to employees taking unauthorised holiday over the Christmas period.

Employment Tribunal Case History

In the case of [Mrs J Stott v Next Retail Ltd](#), Mrs Stott was dismissed for not attending work on Christmas Eve, even though she was not contracted to work on that day.

Next had placed posters in its stores confirming that, due to the needs of the business, all staff were to work on Christmas Eve whether they were contracted to or not, as the company would need their staff to prepare for that year's Boxing Day sales.

Mrs Stott told her bosses that she could not work on Christmas Eve due to prior arrangements. It was not made clear to her at that time, that her refusal to work could result in her dismissal.

Mrs Stott returned to work on 26 and 27 December, when she was asked to attend a disciplinary hearing which resulted in her dismissal.

The Employment Tribunal considered the facts of the case, noting that Mrs Stott had worked for Next for several years and that, historically, she had only ever worked over the Christmas period when contracted to do so.

The Employment Tribunal concluded that when Mrs Stott advised her employers that she could not work on Christmas Eve, she was not given the appropriate warning that she could be dismissed if she did not attend work on that day.

Whilst Mrs Stott was awarded damages for unfair dismissal, these were assessed at 70% as the Employment Tribunal felt that Mrs Stott was, to some extent, responsible for her dismissal.

The long and the short of it

Employers should be warned that where an employee has accrued untaken leave and gives reasonable notice to take that leave, the employer must have valid business reasons for refusing the employee's request for leave.

At this time of year employers need to be mindful of implementing hours of work that may be deemed unfair no matter how big or small they are. Next is a retail giant and their need for staff to prepare for the Boxing Day sales was not seen as a legitimate business interest for refusing leave.

For all your employment enquiries and concerns, contact [Lauren Cullen](#) today.

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Note: This is not legal advice; it is intended to provide information of general interest about current legal issues.

