



Bulletin 129

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PREMATURE RETIREMENT BY ONE DAY COSTS EMPLOYER £36,000

In *Plewes -v- Adams Pork Produce Limited* (2600842/07) a Tribunal held that an employer could not rely on the default retirement exemption in the Employment Equality (Age) Regulations 2006 when it retired an employee on the day before his 65th birthday. The exemption only applies where the employee retires on or after their 65th birthday. The employer was left without a defence to claims for unfair dismissal and age discrimination.

In a salutary tale of the dangers of getting mandatory procedures even slightly wrong, the Tribunal awarded the employee compensation of over £36,000, including an award of £7,500 for injury to feelings. This was in spite of the fact that the employee was re-engaged through an agency two weeks after his retirement. The Tribunal's award included a maximum uplift on compensation of 50% largely on the basis that the Respondent was a large employer with a personnel department and had no excuse for its error. The Tribunal also made a rare costs award of £4,000 against the Respondent.

.....but contrast to procedural defects where the employee is 65 or over

In *Todd -v- Sanquhar Home Ltd S/116418/07* the employer failed to give an employee the correct notice of her intended retirement date and right to request to continue working under the Age Regulations. Here the dismissal fell within the default retirement exemption and the Tribunal concluded that the breach was one "of timing only". Accordingly the Tribunal awarded only one week's pay as compensation.

If you require any specific advice in connection with the material contained in this bulletin, or on any other Employment Law issues, please contact a member of the Employment Team on 0151 600 3000. If you no longer wish to receive the bulletin please let us know by return email.

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