

## No Automatic Right for Part-Time Workers to Pro-Rata Bank Holidays

The Courts of Session, in rejecting an appeal against a decision of the EAT, has held that it is not necessarily discriminatory under the Part-Time Workers Regulations for an employer not to give a part time employee pro-rata days off work to reflect bank holiday Mondays.

In this case, the Appellant's Contract of Employment provided that employees were entitled to public holidays only "where these fall on your normal working day". The Appellant worked on a part-time basis, Wednesday, Thursday and Friday each week only and was therefore not allowed time off in lieu when public holidays fell on Mondays despite the fact that full-time workers in his team who normally worked on Mondays were given the day off.

The Court was happy to uphold the judgment originally made by the Employment Tribunal that in this case the distinction was not between full-time and part-time workers but between those who worked on Mondays and those who did not (whether or not they were part-time). Because the employer would have treated a full-time worker who did not work on Mondays in exactly the same way and not given him or her days off in lieu, the Appellant had failed to establish causation and his appeal was dismissed.

### Practical Tip

Make sure that your Contracts of Employment are clear as to how any benefits including holiday entitlements will apply in respect of part-time employees.

A key factor in this case was that it was absolutely clear from the contractual documentation that all employees regardless of full-time or part-time status would only be entitled to public holidays where these fell on days when they were due to work.

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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