



Real Life Case Studies



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Employment:

Plewes v Adams Pork Produce Ltd

This Employment Tribunal decision concerns a production operative, Mr Plewes. His contract of employment stated that the normal retirement date for the firm was the day before the employee's sixty fifth birthday. The employer followed the 'duty to consider' procedure set out in the Employment Equality (Age) Regulations 2006 to dismiss Mr Plewes by reason of retirement. Mr Plewes made a request to continue working under the procedure.

The request was rejected and so was his appeal.

The employer proceeded to dismiss Mr Plewes by reason of retirement on the day before his sixty fifth birthday. Mr Plewes made an employment tribunal claim for unfair dismissal and age discrimination.

The employment tribunal held that the dismissal was unfair and that he had been discriminated against on grounds of age. A retirement dismissal is only fair if the duty to consider procedure is followed and the retirement is at or over the age of 65. Any normal retirement age below the age of 65, even if it is just one day's difference, has to be objectively justified, which the employer was unable to show.

There are two lessons to be learnt from this case. The first is that if organisations have the retirement date as being the day before or even the week before the employee's sixty fifth birthday they should ensure that the retirement actually takes place on the day the employee becomes 65 or afterwards. Second, it is very important for the employer to be sure that the retirement date is correct and that there are no administrative errors which could lead to an employee being retired just before his sixty fifth birthday as this could have a similar result.

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