Not unlawful deduction from wages, for employees who claimed workload required overtime

The failure of a claim by a group of cleaners for pay for additional hours they had worked, provides some reassurance for employers. The EAT have determined that the employer did not make an unlawful deduction from wages where they did not pay some cleaners for the parts of their lunch hour which they worked without being asked to do so, when the cleaners said that their workload required them to.

The detail

*Blair v Hotels Solutions London Limited* involved a group of cleaners who were required to clean a specific number of rooms in their 7 hour working day. They had an unpaid one hour break for lunch. The cleaners claimed that in order to clean all their rooms they could only take half an hour at lunchtime and therefore claimed unlawful deduction from wages for the overtime pay they said they should receive for working half of their lunch hour. The EAT has rejected this claim.

The individuals’ contracts said “Overtime is voluntary, but due to the nature of the business employees may be required to work overtime at short notice and their cooperation in this matter is necessary”. As overtime was voluntary, the EAT highlighted that the employees could have only worked the 7 hour day. If they had done so, the EAT accepted that there might have been a performance issue and that may have led to other arguments such as whether any resultant dismissal was unfair. However that did not entitle the cleaners to pay for the extra time they had worked, even though they felt they needed to.

What does this mean for me?

Provided your contract wording is specific, you will not be liable for overtime payments for employees who work extra to meet their targets. Whilst this is reassuring for any of you who may find yourself facing similar complaints, care does always need to be taken with the workload imposed on employees, particularly if they complain that it is excessive as this may result in other claims which you may be not be able to defend.

Comment

It is still going to be important for employers to be realistic about targets for employees. This case also illustrates the importance of careful drafting of the words used in contracts for overtime and overtime pay, and keeping that wording under review. Different wording in this case may have result in a different outcome.

For further information about Weightmans or to discuss any of the issues in this update, please contact Phil Allen - Partner at Weightmans on 0161 214 0504 or phil.allen@weightmans.com
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