
Working Time: Compensation for failure to provide rest breaks

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THE FACTS

Mr Grange was employed by Abellio London Ltd, initially as a bus driver, then as a worker who monitored and regulated bus services. He claimed that Abellio had refused to allow him to take the twenty minute rest break to which all workers working for longer than six hours are entitled. His claim was initially unsuccessful, and he appealed to the EAT. The EAT upheld his appeal, holding that an employer does not have to actively refuse a request to be in breach of its obligations: denial of the right to the rest break can take place through the arrangement of the working day. His claim was remitted to the employment tribunal which held that Abellio was in breach of its obligation to provide rest breaks to Mr Grange in respect of a period of 14 days.

Mr Grange gave evidence that, due to a medical condition he needed to regulate his food intake, the lack of rest breaks had caused him “distress and discomfort” that was more than a minor inconvenience. No medical evidence was heard on the point. On this basis the employment tribunal awarded him £750 as a just and equitable award. Abellio appealed this award, arguing that the Working Time Regulations do not permit awards for personal injury for failure to provide rest breaks or (alternatively) that £750 was an excessive award. (Mr Grange appealed on a jurisdictional point, which is not considered in this alert.)

The EAT overturned Abellio’s appeal, holding that employment tribunals are permitted to award damages for personal injury in these claims. The EAT also rejected Abellio’s alternative argument, that the award was excessive.

WHAT DOES THIS MEAN FOR EMPLOYERS?

This case opens the door to workers seeking personal injury damages when they have been denied rest breaks and can prove that they have suffered more than a minor inconvenience as a result. Employers should factor this in when they are assessing potential liability if workers are alleging that they have been denied rest breaks. However, employers should note that this might not be the end of the matter as there is Court of Appeal authority that injury to feelings awards cannot be made in these cases, and arguably injury to feelings awards are akin to personal injury.

[Grange v Abellio London Ltd EAT/0304/17](#)

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