



Jurisdiction of the EAT in Organisation of Working Time Act cases. *

An employee may bring a claim to the Employment Appeals Tribunal under the Organisation of Working Time Act in respect of holiday pay which arises on termination of employment.

In the alternative the claim can be sent to a Rights Commissioner.

For all other matters the matter must be referred to a Rights Commissioner.

The rules relating to implementation of a Decision of a Rights Commissioner under Section 28 (8) Organisation of Working Time Act 1997 can only be implemented by the Labour Court.

In a recent case of Karen Caffrey, Donal Fitzpatrick and Derek Evans and Churchtown School of Motoring Limited reference TE9/2014 and others the EAT implemented a Decision of a Rights Commissioner for two of the applicants under the Organisation of Working Time Act.

In our opinion, that implementation has not been made in accordance with the legislation and could well be open to challenge.

We are somewhat surprised as to how the application itself could ever have got before the EAT taking into account the fact that the forms are specific as regards what can be implemented.

These problems will not arise into the future when all the services amalgamate. Until that happens, these types of situations can arise. It will be interesting to see how these awards could be implemented and that the party against whom the implementation was made could at any stage seek to have them set aside as not being valid implementations under the Organisation of Working Time Act.

Before acting or refraining from acting on anything in this update legal advice from a Solicitor should be obtained.

In contentious cases a Solicitor may not charge fees or expenses as a percentage of any award or settlement.