



Working Time Cases – Records*

In Case ADJ 2287 the Adjudication Officer confirmed that where an employer does not provide records the burden of proof lies on the employer.

The Adjudication Officers in this case also looked at the issue of the time limit and quoted the case of HSE-v- McDermot 2013 334MCA which confirmed that where a contravention is framed for a period in which the claim is presented not more than six months after the beginning of that period the claims is not statute barred. The effect of this is that if there is an ongoing breach by an employer an employee can bring a claim provided they limit it to the six months prior to the time of lodging the claim. If they go outside that period then the claim may become Statute Barred. This is a drafting issue which unfortunately a number of employees will not always recognise. It is important that the claims are properly put in place.

***Before acting or refraining from acting on anything in this guide, legal advice should be sought from a solicitor.**

****In contentious cases, a solicitor may not charge fees or expenses as a portion or percentage of any award of settlement.**