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RETURNING TO SAME JOB FOLLOWING MATERNITY LEAVE

When a woman returns to work following maternity leave, she is normally entitled to return to “the job in which she was employed before her absence”.

In the recent case of Blundell v St Andrew’s Catholic School, the Employment Appeal Tribunal (“EAT”) has handed down the first decision about what this actually means.

In this case, the Claimant was a teacher at a primary school in which the teachers usually rotated classes every two years. When she began her maternity leave, she was teaching the reception class, but on her return she was allocated to teach the pupils in Year 2. The Claimant alleged that this was not a return to the same job.

The EAT upheld the original decision of the Employment Tribunal that this was the same job. It stated that it was necessary to consider three factors when comparing the old and new jobs - nature, capacity and place.

The Claimant was employed as a primary school teacher and she returned to work as a primary school teacher – the statutory requirement was therefore satisfied.

The EAT did note that the Claimant was subjected to a detriment because she was not consulted over the class which she would be assigned to teach as she would have been had she not been absent on maternity leave.

For further information, please contact Bethan Southcombe on 0117 945 3084 or e-mail employment@metcalfes.co.uk