

Employment E-Brief No 67
WORKPLACE STRESS - EMPLOYERS OUGHT TO BE PRO-ACTIVE

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Recently the Court of Appeal, in Sutherland v Hatton, laid down guidelines on the extent to which employers owe a duty of care to employees who suffer stress as a result of their job.

Before the Court of Appeal, the 4 claimants lost. However, one of them has successfully appealed to the House of Lords.

The House of Lords broadly supported the guidance given by the Court of Appeal, but found that, factually, the employer concerned had breached its duty by failing to take pro-active steps to lessen the individual's job related stress.

By recounting the facts, a useful lesson can be drawn out for all employers.

The individual (A - a teacher) developed symptoms of depression in 1995, but kept it to himself until taking 3 weeks off work in May 1996. Upon his return he said he was finding things difficult and his symptoms continued during the summer holidays. When he returned in September, the Headmaster asked a colleague to keep an eye on him. In the November, he broke down completely and brought a claim.

It is clear from the facts that 'A' had not raised his concerns specifically with his employers, with the result that the House of Lords said it was a border line case as to whether the employer was in breach of their duty.

However, since 'A' had taken 3 weeks off work in May 1996 with no physical ailment, and had been signed off due to stress and depression, the House of Lords considered that the duty of care had been broken. Sympathetic enquiries about his problems should have been made at that time by the senior management team, who should have considered what could be done to ease them. At the very least the school should have taken the initiative in making such enquiries and arranging for a reduction in his workload following his return to work.

Essentially his condition should have been monitored and as soon as it was noted that it was not improving, more drastic action taken.

The lesson is that employers should not ignore absences which are certified by the GP as due to stress and depression. It would always be sensible to make gentle enquiries of the individual to determine whether or not there is a more serious underlying problem and what can be done in the workplace to prevent it becoming worse.

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