

MMD

MONDAY MORNING DISPATCH

BY Chadwick Lawrence

This week on the podcast Nils discusses a sanctions case involving a shipping company, and Sam explores neurodiversity in the workplace and the importance of making reasonable adjustments. Daniel's third video on settlement agreements talks about confidentiality aspects of pre-termination negotiations. We take a look at a case involving a nurse winning a case of constructive unfair dismissal. We're now on our summer break for seminars, but keep an eye out for our Autumn/Winter programme coming soon.



THE LEGAL ALTERNATIVE



THE MEDIA HUB



WHAT'S GOING ON



UPCOMING EVENTS

THE LEGAL ALTERNATIVE PODCAST

7. Shipping Company Sanctions, Neurodiversity and Reasonable Adjustments in the Workplace

Sam & Nils are back discussing a recent sanctions case involving a shipping company, the importance of diversity and disability discrimination in the workplace, and the need for providing reasonable adjustments for neurodivergent employees. They also answer a question surrounding employment contracts, emphasising the need for compliance even in short-term employment situations.



SPOTIFY



YOUTUBE



THE MEDIA HUB

Are you breaking up with me? Settlement discussions part three

In this third instalment, we focus on the confidentiality aspects of pre-termination negotiations. Whilst the content of discussions are inadmissible in the majority of cases, we explore the impact on automatically unfair dismissals and discrimination claims.

WHAT'S GOING ON

Constructive Unfair Dismissal – Importance of Fair Process: Miss J Thorpe v Cumbria, Northumberland, Tyne and Wear NHS Foundation Trust

This recent case has shed light on employer responsibilities concerning the importance of a fair and property disciplinary process.



Background

In April 2020, a trainee nurse was suspended by her employer following a patient's allegation that she was pregnant with his child. The patient was undergoing treatment in a secure facility for men with mental disorders and had a history with the criminal justice system.

The employer carried out a disciplinary hearing meeting in July 2021, but failed to provide the claimant with a disciplinary outcome letter. Nor did her employer provide

the trainee nurse with a letter explaining her continued suspension after July 2021 despite the disciplinary procedure producing any conclusive evidence against her. The employer also ignored the trainee nurse's grievance lodged in October 2021.

Despite the claim being unsubstantiated and the patient passing away in December 2020, the Trust's investigation did not conclude until July 2021, and Ms. Thorpe remained suspended throughout this period. Even after the disciplinary panel found no conclusive evidence against her, she was not reinstated until October 2022, leading to her resignation in November 2022.

Tribunal Findings

Constructive Unfair Dismissal:

Under the Employment Rights Act 1996, constructive unfair dismissal occurs when an employee resigns due to their employer's conduct breaching the employment contract's fundamental terms. The tribunal found that the Trust's actions, including the extended suspension without proper justification and inadequate communication, amounted to such a breach, justifying Ms. Thorpe's resignation. The Tribunal awarded £23,533.98 in respect of this element of the claim.

Unlawful Deduction from Wages:

The tribunal determined that Ms. Thorpe experienced unlawful wage deductions during her suspension, as she received only basic pay and lost approximately £1,000 per month. This contravened the Employment Rights Act 1996, which stipulates that employers must not make unauthorised deductions from an employee's wages. The Tribunal awarded £584.25 in respect of this element of the claim.

Breach of Contract:

The Trust's failure to conduct a timely investigation and provide clear communication breached the implied contractual term of mutual trust and confidence. This breach further substantiated Ms. Thorpe's claims and the tribunal's ruling in her favour. The Tribunal did not award a separate amount for this element of the claim.

Broader Impact on Employment Law

This case underscores the critical importance of employers adhering to fair and transparent procedures when handling allegations against employees. It highlights the necessity for timely investigations, clear communication, and support for employees during challenging periods.

UPCOMING EVENTS

Seminars & Events

We're now on our summer break for seminars, but keep an eye out for our Autumn/Winter programme coming soon.



Mental Health Awareness Sessions

We're partnering with **Tailored Learning Solutions** to offer two day, in person, accredited Mental Health First Aid courses at our **Wakefield office**.

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Details & booking: [Tailored Learning Solutions](#)
For more information, email: carolgledhill@chadlaw.co.uk



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