



REDUNDANCY AND SUITABLE ALTERNATIVE EMPLOYMENT

In the case of *Readman v Devon Primary Care Trust*, Mrs Readman [R], a nurse was placed at risk of redundancy and offered three alternative posts by her employer. One of the posts, a Hospital Matron position was correctly found by the Employment Tribunal to amount to suitable alternative employment. R refused this post on the grounds that having worked in community nursing since 1985 she had no desire to return to a hospital setting. The employer refused to make her a redundancy payment. The Employment Tribunal held that a reasonable employee would have accepted the employer's offer and so also refused her a redundancy payment on the grounds that her refusal had been unreasonable.

On appeal the Employment Appeals Tribunal [EAT] overturned the Tribunal decision and held that it was wrong to apply a wholly objective test to the question of reasonableness. When considering whether a refusal of suitable alternative employment is unreasonable the proper question is whether the employee in question acted reasonably in refusing the offer. This will involve a consideration of whether the reason given by the individual constituted a sound and justifiable reason for turning down the offer.

The EAT therefore allowed the appeal and substituted a finding that R was entitled to receive a redundancy payment. It would seem therefore that an employee can act reasonably in refusing an offer of suitable alternative employment even where the Employment Tribunal correctly concludes that a reasonable employee would have accepted the employer's offer!

As usual if advice is needed on employment law related matters please contact

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Regards

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