

LEGITIMATE TO SUSPEND A TEACHER FOR MANHANDLING PUPILS

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The Claimant, Ms Agoreyo, an experienced teacher, commenced work as a primary school teacher for the London Borough of Lambeth in order to teach a class of up to 29 five and six-year-old children, two of whom demonstrated challenging behaviour.

It was alleged that on two occasions the Claimant used unreasonable force towards the two children as follows:

- She dragged one child on the floor out of the classroom in the presence of another member of staff and the rest of the children whilst the child cried “help me”;
- She dragged another child very aggressively a few feet down the corridor whilst shouting at him;
- She also told this child to leave the classroom for

failing to follow instructions. When he refused, she shouted “if you don’t walk then I will carry you out!” and then picked up the child who kicked and screamed in the presence of other children.

The Claimant was subsequently suspended pending investigation of these allegations and she resigned whilst on suspension.

The Claimant challenged the lawfulness of her suspension as being a repudiatory breach of the implied duty of trust and confidence. She did not argue that the allegations against her should not be investigated, but that the suspension was not reasonable or necessary for the investigation to take place.

The Court of Appeal held that Lambeth had been bound to suspend the Claimant after receiving reports of the allegations against her. Given that there had been reasonable and proper cause to suspend her, the suspension had not breached the implied term of trust and confidence.

It was held that the assessment of whether there was reasonable and proper cause for a suspension, like other issues of reasonableness, was a question of assessment. The allegations of misconduct were serious and had to be investigated. As the employer had to safeguard the interests of very young children, Lambeth had reasonable and proper cause to suspend the Claimant. The appeal court held that the question is not whether suspension was “necessary”. Further, it considered that whether the suspension was to be viewed as a neutral act was “ultimately not a relevant question nor a particularly helpful one”. The crucial question in such cases was whether there had been a breach of the implied term of trust and confidence and that depended on whether there had been reasonable and proper cause for the suspension. This was a highly fact-specific question, not a legal question.

Mayor and Burgesses of the London Borough of Lambeth v Agoreyo
[2019] EWCA Civ 322

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