At what point does a notice sent by post take effect?

[et_pb_section bb_built="1" background_color="#ffffff" fullwidth="on" custom_padding_last_edited="on|desktop" _builder_version="3.0.99" custom_padding_tablet="50px|0|50px|0" transparent_background="off" padding_mobile="off" custom_padding="|||" next_background_color="#000000" global_module="136"][et_pb_fullwidth_header global_parent="136" title="Employment Law News" _builder_version="3.0.99" background_image="http://davidk423.sg-host.com/wp-content/uploads/2017/09/bdbf_final-stages-1-4-1.jpg" background_layout="dark" title_font="||||||||" subhead_font="||||||||" background_color="rgba(255, 255, 255, 0)" /][/et_pb_section][et_pb_section bb_built="1" admin_label="section" prev_background_color="#000000" next_background_color="#000000"][et_pb_row admin_label="row" background_position="top_left" background_repeat="repeat" background_size="initial"][et_pb_column type="3_4"][et_pb_text background_layout="light" text_orientation="justified" use_border_color="off" border_color="#ffffff" border_style="solid" background_position="top_left" background_repeat="repeat" background_size="initial"]

At what point does a notice sent by post take effect?

[post_details]

[Social-Share]

Unless there is an express contractual term stating otherwise, notice of termination of employment sent by post will take effect once the recipient has personally taken delivery of the letter.

Ms Haywood was employed by an NHS Trust. She was put at risk of redundancy at a consultation meeting, at which point she told the Trust she was due to go on holiday overseas. On 20 April 2011, the Trust sent 3 letters to Ms Haywood giving 12 weeks' notice of her dismissal. The first was sent by recorded delivery; as Ms Haywood was not home, a slip was left at her house on 21 April. Ms Haywood's father-in-law collected the letter from the sorting office on 26 April and left it at her house. Ms Haywood read the letter on 27 April, a few hours after her return from her holiday. The second letter was sent by standard post, and it is unclear what happened to it. The third was sent by email to Ms Haywood's husband by email, which he read on 27 April.

The Trust would have to pay Ms Haywood a higher pension if she was dismissed after her 50th birthday; in order to avoid that, notice of termination must have been effective by 26 April 2011. The Trust argued that it had been.

The Court of Appeal noted that there was no express term in Ms Haywood's employment contract specifying when notice sent by post would be effective. Where this is true, it held that notice will only take effect once the employee personally takes delivery of it. In Ms Haywood's case, that meant that her notice was effective from 27 April 2011 (the date she read the hard copy letter; service to her husband's email address was not valid given that she had not given permission for the Trust to communicate with her using it). The Trust was therefore obliged to pay a higher pension sum.

In light of this decision, employers may want to include in

their contracts a provision stating when notices sent by post will be considered effective (2 days after the date of posting, for instance) in order to remove ambiguity.

Newcastle upon Tyne NHS Foundation Trust v Haywood [2017] EWCA Civ 153

[/et_pb_text][/et_pb_column][et_pb_column type=”1_4″][et_pb_sidebar orientation=”right” area=”sidebar-1″ background_layout=”light” remove_border=”off” show_border=”on”] [/et_pb_sidebar][/et_pb_column][/et_pb_row][/et_pb_section][et_pb_section bb_built=”1″ admin_label=”section” prev_background_color=”#000000″][et_pb_row admin_label=”row” background_position=”top_left” background_repeat=”repeat” background_size=”initial”][/et_pb_row][/et_pb_section]