

Workers can claim for not getting rest breaks they did not ask for

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A worker need not have expressly asked for a minimum rest break (twenty minutes every six hours) and been denied it to bring a claim under the Working Time legislation.

Mr Grange worked for Abellio London Limited from 2009; his job involved monitoring and regulating the company's bus services. His working day was eight and a half hours, the half hour being an unpaid rest break. As of 2012, Abellio changed its schedule and the working day was reduced to 8 hours. The expectation was that staff would work through the shift without a break and leave earlier.

Mr Grange submitted a grievance in July 2014 stating that since the hours were changed in 2012, he had routinely worked without a meal break, which was affecting his health. He brought a claim in the Employment Tribunal claiming that Abellio had refused his right to rest breaks under the Working Time legislation.

Abellio's argument was that as Mr Grange had never explicitly asked to take a break in the period he complained of, Abellio could not be seen as refusing his rights in that regard.

The Employment Appeal Tribunal agreed with Mr Grange. It held that, in order to bring a claim such as that brought by Mr Grange, a worker does not need to have explicitly asked to take a break and been refused. Instead, employers need to be proactive and ensure that their working arrangements allow for their staff to take breaks. If the working day is arranged such that a worker cannot take a break, their rights to do so have been refused.

In the light of this decision, it is wise for employers in high-pressured industries to check their working arrangements. If staff are routinely too busy to take breaks, an employer may be in violation of Working Time legislation even if nobody has complained at the time.

Grange v Abellio London Ltd [2016] UKEAT 0130/16/1611

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