

Irish employer found to be in breach of its obligations under the Sick Leave Act 2022

Insights - 29/05/2024

The Workplace Relations Commission (the "WRC") has made its first finding against an employer under the Sick Leave Act 2022 (the "Act") in relation to statutory sick pay ("SSP"), in *Michael Broderick v North Quay Associates Limited* (the "Case").

The Sick Leave Act

When enacted on 1 January 2023, employees were given a statutory right to receive 3 paid days when absent from work due to illness. This entitlement continues to be implemented on a phased basis and as of 1 January 2024, this has now increased to 5 paid days, with further increases planned for the next two years. Statutory sick pay (SSP) is paid at a rate of 70% of an employee's normal weekly pay, with a maximum limit of €110 per day.

Further information regarding entitlements and obligations imposed under the Act are discussed in our previous article [here](#).

Summary of the case

Mr Broderick (the "Complainant") brought a case against his employer (the "Respondent") alleging that he was not paid statutory sick pay as provided for under the Sick Leave Act when he was absent from work for three days in July 2023. He further claimed that the payments he did receive were inaccurate and that he was penalised for raising these issues with the Respondent.

The Respondent fully accepted its failure to comply with the Act and had rectified the matter prior to the WRC hearing by paying the shortfall owed to the Complainant for the balance of sick leave taken.

The Adjudication Officer (the "AO") accepted that the Respondent had since paid the SSP owed to the Complainant and was understanding of the fact that unusual work patterns and allowances

made it more nuanced for the Respondent to come to terms with its obligations under the Act. However, despite no evidence of penalisation being found, the AO awarded €450 compensation to the Complainant due to the time and effort it took the Complainant to be paid his legal entitlement.

Key takeaway

To reduce the probability of complaints being made to the WRC under the Sick Leave Act, employers should ensure they have a comprehensive and adequate sick leave policy in place. If employers already have a sick leave policy in place that is on a whole, more favourable towards the employee than what is prescribed under the Act, the employer will be deemed to have satisfied its duties under the Act. In this regard, we discussed the first claim ruled under the Act in our [previous article here](#). This case found in favour of the employer as its existing sick leave policy was considered, as a whole, more favourable towards its employees than the prescribed rate provided for under the Act.

In the absence of any such policy, employers should be aware of and adhere to the continued phased implementation of statutory sick pay over the coming years.

For assistance with reviewing, preparing or updating company policies, or for more general information, please contact our Irish Employment team via their contact details below.

About Ogier

Ogier is a professional services firm with the knowledge and expertise to handle the most demanding and complex transactions and provide expert, efficient and cost-effective services to all our clients. We regularly win awards for the quality of our client service, our work and our people.

Disclaimer

This client briefing has been prepared for clients and professional associates of Ogier. The information and expressions of opinion which it contains are not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific advice concerning individual situations.

Regulatory information can be found under [Legal Notice](#)

Key Contacts



Michelle McDermott

Trainee Solicitor

Ireland

E: michelle.mcdermott@ogier.com

T: +353 1 584 6773



Marianne Norton

Associate

Ireland

E: marianne.norton@ogier.com



Bláthnaid Evans

Head of Employment and Corporate Immigration

Ireland

E: blathnaid.evans@ogier.com

T: +353 1 632 3113

Related Services

Employment law