

taking leave while resting

All workers have a statutory right to take paid annual leave. Generally, they will be able to request to take the leave whenever they wish although the employer also has the power to direct when holiday should and should not be taken.

Typically the employer may want to use this power if there is any set shutdown period. In the absence of any other written agreement, the employer will be able to ensure that the shutdown will be regarded as leave provided they give advance notice to the worker. Similarly, the employer can stipulate that holiday should not be taken in any particularly busy periods.

In the recent case of *Russell and others -v- Transocean Resources Ltd and others*, the Supreme Court had to consider the question of whether the employer could use this power to direct that workers take holiday during a period when they would not otherwise have been required to attend work.

The case involved offshore oil rig workers who worked a pattern of two weeks offshore followed by two weeks onshore. When offshore, they worked 12-hour shifts. When onshore, they could spend their time as they chose and would only occasionally be required to take part in work-related activities such as training and appraisals.

The employees asked to take their annual leave during their offshore working periods but their requests were refused. They all submitted claims that they should be entitled to take their annual leave when they wanted and in particular should not be required to take their leave during what would otherwise be a 'rest period'.

The Supreme Court rejected their claims. It ruled that leave need not be taken in periods when employees are required to work. Employers are entitled to insist that the employees take their paid annual leave during the onshore periods during which they were not required to carry out duties.

Comment

This decision will be particularly relevant to offshore workers, teachers who are required to take their annual leave during non-term time, and seasonal workers such as tourist industry workers.

For further information, please contact: [Christopher Davies](mailto:CDavies@gateleyuk.com) on +44 (0) 161 836 7936 or CDavies@gateleyuk.com

