

Press Release

Date: Friday 27 October 2006

From: Daniel Barnett, barrister, 1 Temple Gardens

Ministers of religion can claim unfair dismissal

A landmark decision today (Friday 27 October) from the Employment Appeal Tribunal holds that ministers of religion are entitled to claim unfair dismissal.

Ministers of religion have until now always been regarded by the UK courts as appointed to a holy office and not as employees of a church.

However, the Employment Appeal Tribunal has today (Fri) held that ministers are entitled to claim unfair dismissal against churches. The decision has enormous ramifications for all religious organisations as they have previously enjoyed immunity from being sued for unfair dismissal.

The Reverend Sylvester Stewart was removed as pastor from the Harrow, north-west London, congregation of the New Testament Church of God in June 2005, due to allegations of financial impropriety (which he denied). He claimed unfair dismissal, which the New Testament Church of God resisted on the grounds that he was not its employee, and therefore he could not bring a claim against it.

The Employment Appeal Tribunal rejected this argument, stating that “if the relationship between church and minister has many of the characteristics of a contract of employment...these cannot be ignored simply because the duties are of a religious or pastoral nature”.

Barrister Daniel Barnett, representing the Reverend Stewart, said: “The government has been considering granting employment law rights to ministers for several years. The courts have given up waiting. Ministers tend to religious needs on behalf of a church, just as medical staff tend to physical needs on behalf of an NHS trust, but nobody would suggest that medical staff should be denied employment rights.”

ENDS

For comment or further information, contact barrister Daniel Barnett (020 7583 1315), Lynden Lever of Stone King solicitors (01225 337599), or Reverend Dr Gerry Barlow, chair of the Amicus faith workers' branch (0845 108 2575).

NOTES TO EDITORS

- 1. The Employment Appeal Tribunal was presided over by His Honour Judge Ansell. It hears appeals from decisions of the employment tribunal.**
- 2. Section 23 of the Employment Act 1999 enables the Department of Trade and Industry to extend employment rights to specific categories of worker. On 10 February 2004 the DTI announced it was considering extending employment rights to clerics, following a recommendation from a Church of England internal review (DTI Press Release 10/2/04 10:51, <http://tinyurl.com/vrque>). In February 2005 the General Synod of the Church of England set up an implementation group to bring forward internal legislation (Hansard 21 Feb 2005 col. 256W, <http://tinyurl.com/u63h8>). To date, no legislation has been produced by the Church of England General Synod, nor has the DTI exercised its powers to extend employment rights.**
- 3. In December 2005, the House of Lords held that a female minister in a Church of Scotland parish was entitled to claim sex discrimination, despite the previous ban on ministers exercising any employment rights (Percy v Church of Scotland, <http://tinyurl.com/7knfc>).**
- 4. The New Testament Church of God is seeking permission to appeal this decision. If permission is granted, the appeal will probably be heard in summer 2007. If not, the case will return to the employment tribunal to decide whether Reverend Stewart was fairly or unfairly dismissed.**