

## A new shape of lawyer

**I run a small but busy business and I'm slightly unsure of the law relating to rest breaks. In what circumstances could a business be seen to be refusing a break? Is it a case of just saying 'no' or is there more to it than that?**



Simon Crack

**This issue came up in a recent case referred to the Employment Appeal Tribunal (EAT).**

In *Grange v Abellio London Ltd*, it was decided that an employer could be breaking Working Time Regulations if they do not take sufficient steps to ensure that their staff are able to take breaks from their duties (a well-known legal entitlement).

While every business owner should know that workers have the right to an uninterrupted 20 minute break if they work more than six hours a day, there are grey areas.

In this particular case, the EAT was asked to consider whether a business could be held liable if they had not explicitly refused a break and a member of staff had not specifically requested one.

The claim related to a man who was employed by Abellio, a London-based bus company, as a relief roadside controller.

To begin with his working day lasted eight and a half hours, which included a dedicated half an hour lunch period.

Having had difficulty slotting this break into the hectic daily schedule, in 2012 the company decided that it would instead permit controllers to finish half an hour early.

Two years on, one of the team submitted a grievance and then went to a Tribunal on the grounds that he had been refused the break.

At the original hearing, a Judge ruled that since Abellio had never expressly denied the man his break, the claim should be rejected.

Following this he decided to pursue an appeal and the EAT took a rather different view, arguing that failing to make the necessary provision could actually amount to refusal. They made it clear that employers must be proactive in ensuring that working arrangements allowed workers to take their breaks.

**If you would like advice about the law relating to rest breaks please call Hethertons' Employment team on 01904 528 200 and speak to Jo or Gill.**