



CILEX Level 6 Single Subject Certificate/CILEX Level 6 Professional Higher Diploma in Law and Practice/CILEX Level 6 Graduate Fast-Track Diploma

Unit 19 – The Practice of Employment Law

Case study materials

January 2023

Information for candidates

- You should familiarise yourself with these case study materials before the examination, taking time to consider the themes raised in the materials.
- You should consider the way in which your knowledge and understanding relates to these materials.
- In the examination, you will be presented with a set of questions that relates to these materials.
- You may discuss these materials with your tutor(s).

Instructions and information to candidates during the examination

- You are allowed to take your own clean/unannotated copy of this document into the examination. Alternatively, you can access the electronic version of this document in the examination.
- You are allowed to take your own unmarked copy of the following designated statute book into the examination **Blackstone's Statutes on Employment Law 2021-2022, 31st edition, Richard Kidner, Oxford University Press, 2021.**
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

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CASE STUDY MATERIALS

ADVANCE INSTRUCTIONS TO CANDIDATES

You are a trainee lawyer in the firm of Kempstons, The Manor House, Bedford, MK42 7AB. Your supervising partner is Kadisha Smith. You arrive at work and are given the following documentation to review and consider.

DOCUMENT 1: Email from Tammy Denver to Kadisha Smith dated 9 December 2022

DOCUMENT 2: Email from Tammy Denver to Kadisha Smith dated 12 December 2022

DOCUMENT 3: Email from Jacob Ritter to Kadisha Smith dated 13 December 2022

DOCUMENT 4: Email from Liam Light to Kadisha Smith dated 15 December 2022

DOCUMENT 5: Memorandum from Kadisha Smith dated 19 December 2022

DOCUMENT 6: Attendance note dated 22 December 2022 Kadisha Smith (Advocate)
Zander Zahir (Client)

DOCUMENT 1

EMAIL

From: Tammy Denver

Sent: 9 December, 2022, 18:22

To: Kadisha Smith

Subject: Employment matter

Hello Kadisha

I hope you will be able to help me with some problems I am having. I will explain below.

I had worked as a warehouse assistant for Accurate Reports Ltd. for just over four years. I left my job last month as I felt I hadn't been treated fairly and I finally had enough of working there.

One of the problems was with my co-worker, Janey. At first, I got along with her, we would both work late nights and undertake the same long shifts. But a few months ago, Janey said she was getting joint pains and now she has been diagnosed with Multiple Sclerosis (MS). Janey told one of the managers, Mrs Young, about her condition and ever since, Mrs Young lets Janey take more work breaks than me. She has also given Janey a fancy new desk to use and a comfy chair to sit on, whereas I still have to use the old wooden ones! I found this very unfair, Janey is not even ill every day, most days she's fine.

Another reason I finally decided to quit the job has to do with another one of the managers, Mr Frank. During the entire four years I worked for Accurate Reports Ltd., he never once used my proper name. He would always call me 'Token Tammy'. This was his idea of a joke as he believed the company only hired me to appear 'diverse' as I was, according to him, 'the only non-white or English person' working there. At first, I asked Mr Frank to stop calling me that name, then I just ignored it as I needed to keep my job. Funny thing is, I am actually white and English! My co-worker, Owen, saw how Mr Frank treated me, and I know he'll vouch for me.

Finally, I had had enough, and I resigned. But I can't seem to forget how I was treated at Accurate Reports Ltd. and it's making me upset. I want to complain about the company, but I don't know how or what I would have to do to make such a complaint. Can you please help me?

Thank you.

Tammy Denver

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DOCUMENT 2

EMAIL

From: Tammy Denver

Sent: 12 December, 2022, 08:30

To: Kadisha Smith

Subject: Employment matter - continued

Hello Kadisha

I sent you an email last Friday about my work problems. Over the weekend, I found out some things that have made me think I may not bother complaining against my old employer after all.

Firstly, my friend who still works at the company told me that Accurate Reports Ltd. is having really bad money troubles (my friend said the company is 'insolvent on the Companies House Registry').

I've also been in touch with Owen, who saw me being badly treated by Mr Frank at work. I asked Owen to speak up for me if I complain against the company, but he said he would not.

I'm guessing I shouldn't bother going ahead now. Is there anything else I can do instead of taking the company to court? I want them to at least say sorry for how I was treated.

Thank you.

Tammy Denver

DOCUMENT 3

EMAIL

From: Jacob Ritter
Sent: 13 December, 2022, 14:52
To: Kadisha Smith
Subject: New Employee - Problems

Hello Ms Smith

I am the owner and manager of a sweet shop, Sweety Ltd. Until six months ago, I had four members of staff and had never had problems with any of them. However, six months ago, I hired a new person to work in my shop, Heather Ginola, and things are not going well with her.

Heather often makes comments about how I run my business and she frequently asks to see my 'company policy' on various things, despite my repeatedly telling her that we don't have any policies. We just follow the law and that's been good enough for the past 15 years, so it's good enough now. I think part of her opinionated and entitled attitude relates to her age. Heather is only 20 years old, so it's my mistake for hiring someone so young and immature.

Heather also has a problem with the workplace toilets. I have one room on the premises that houses the shared toilet facilities. This room contains five urinals and one stall with a door. It's obviously built for men and, as we never had any women working here before Heather, it was fine. Heather refuses to use the toilet and instead uses the one in the petrol station down the road. She says I should have a separate toilet for her. Heather seems to think she should get special treatment as she's the only girl working in the company, but she can use the same toilet as the rest of us, we're all equal these days, right?

Finally, we get confectionery delivered to the shop each week and Heather always complains about having to help unload the delivery truck, she says the boxes are too heavy for her to carry. The boys seem to manage, and we must unload the boxes, or we will have nothing to sell in the shop, so it is an essential task, and everyone needs to help out.

Can you please confirm I'm not doing anything wrong as all Heather's complaints have got me worried.

Kind regards

Jacob Ritter

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EMAIL

From: Liam Light

Sent: 15 December 2022, 06.45

To: Kadisha Smith

Subject: Tribunal Representation

Hello

I am writing to you in my capacity as the owner of a perfume shop, Floral Scents Ltd. We create and sell fragrances. I have been having some problems with a now former employee, Meena McCall, and I hope you will be able to assist me.

Ms McCall joined my company earlier this year as the Head of the Scent Development Department. Just three months into her employment, Ms McCall told me she was pregnant. I asked her for some written proof of pregnancy from a medical professional, she told me she would provide this for me, but she never did.

Ms McCall frequently asked for time off to attend appointments associated with her pregnancy. I generally allowed her this leave, despite the fact that she had worked with us for just three months. I did require her to make up the hours of work missed, which she always did. However, on a few occasions, I had to refuse the leave as there was no one available to fulfil her duties.

After a total of just five months in my employment, Ms McCall gave her two weeks' notice and then left our company. The following week, I received a letter from her requesting compensation for 'unfair treatment' with regard to her pregnancy.

Although I do not believe she was treated unfairly, I agreed to discuss the matter with Ms McCall with a view to reaching a settlement agreement. We had a total of three meetings, and our respective legal representatives were also present during these meetings. However, no agreement was reached, and negotiations were terminated after the third meeting last month. Ms McCall is now taking me to an employment tribunal for breach of maternity rights.

I am seeking a new legal representative for this tribunal and hope you will represent me.

However, I am worried that the exchanges between myself and my former legal representative, as well as email exchanges with other relevant parties pursuant to reaching a settlement agreement, may be used against me at the tribunal.

Your advice would be appreciated.

Kind regards
Liam Light

DOCUMENT 5

MEMORANDUM

To: Trainee Lawyer

From: Kadisha Smith

Client: Liam Light

Date: 19 December 2022

Hi

Please see email of 15 December, 22 from Liam Light.

Mr Light notified me today, via telephone, that Ms McCall is now working for another perfume shop/developer in the local area. She has been working for this new employer for the past three months since leaving his company's employment. This is in breach of Clause 10 of Ms McCall's contract of employment. I have included the relevant portion of this clause below.

Mr Light further informed me that Ms McCall is using perfume formulations specific to his company, Floral Scents Ltd., to assist her in developing fragrances for her new employer.

Please prepare to assist me with this client.

Thanks

Kadisha Smith

Clause 10:

Upon leaving Floral Scents Ltd. for any reason, employees cannot work for any business within the perfumery industry within a 30-mile radius of Floral Scents Ltd.... This restriction will remain in place for 36 months.

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ATTENDANCE NOTE

Meeting attended by: Kadisha Smith (Advocate) Zander Zahir (Client)

Date: 22 December 2022

Meeting with Zander Zahir, Director of Needs Ltd., a clothing company.

Needs Ltd recently transferred its clothing repair department to another local business, Repairs Ltd.

The clothing mending department of Needs Ltd had five employees, four of whom were transferred from Needs Ltd. to Repairs Ltd. The fifth employee in the department, Orthella Watts, was dismissed by Needs Ltd prior to the transfer. Ms Watts had received three disciplinary warnings while working for Needs Ltd. and Mr Zahir did not believe Repairs Ltd. would accept her as an employee for this reason, so she was dismissed.

One of the four transferred employees, Gopal Gingham, also had a disciplinary record, however, he had just one prior disciplinary warning. Mr Zahir did not disclose this record to Repairs Ltd. prior to the transfer.

The contracts of all transferred employees contained the clause below.

Clause 3:

All employees agree to contract out of the Transfer of Undertakings (Protection of Employees) Regulations 2006.

End of the case study materials