

CASE STUDY MATERIALS

January 2021
Level 3
THE PRACTICE OF EMPLOYMENT LAW
Subject Code L3-13



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 13 – THE PRACTICE OF EMPLOYMENT LAW*

CASE STUDY MATERIALS

Information for Candidates on Using the Case Study Materials

- This document contains the case study materials for your examination.
- In the examination, you will be presented with a set of questions which will relate to these case study materials. You will be required to answer **all** the questions on the examination paper.
- You should familiarise yourself with these case study materials prior to the examination, taking time to consider the themes raised in the materials.
- You should take the opportunity to discuss these materials with your tutor/s either face-to-face or electronically.
- It is recommended that you consider the way in which your knowledge and understanding relate to these case study materials.

Instructions to Candidates Before the Examination

- A clean/unannotated copy of the case study materials is attached to this examination.

You are permitted to take your own clean/unannotated copy of the case study materials into the examination. You are **NOT** permitted to take any other materials including notes or textbooks.

- In the examination, candidates must comply with the CILEx Examination Regulations – Online Examinations or with the CILEx Examination Regulations – Online Examinations with Remote Invigilation.

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* This unit is a component of the **CILEx LEVEL 3 PROFESSIONAL QUALIFICATIONS** and **LEVEL 3 LEGAL SERVICES KNOWLEDGE QUALIFICATIONS**

CASE STUDY MATERIALS

ADVANCE INSTRUCTIONS TO CANDIDATES

You are a trainee lawyer at Kempstons, The Manor House, Bedford, MK42 7AB. You work in the Employment Department and your supervising partner is Malee Wattana.

Malee would like you to continue with your training and, to this end, she has left some files on your desk that she would like you to work on. She has also provided you with a memorandum, which sets out further information on the files she has given you. The documents are:

Document 1 Memorandum from Malee Wattana to Trainee Lawyer

Document 2 Email from Sally King of ToptoToe Ltd

Document 3 Extract from ET1 Form of Jasmine Franks

Document 4 Attendance Note relating to Fiona Santo

Document 5 Memorandum from Kristen Ikley to Trainee Lawyer

DOCUMENT 1

MEMORANDUM FROM MALEE WATTANA TO TRAINEE LAWYER

To: Trainee Lawyer
From: Malee Wattana
Date: [Today's date]

I have left the relevant files on your desk. Please read through them carefully and ensure that you carry out the required work.

1. **ToptoToe Ltd** (file ref: TT/MW/45/19). ToptoToe Ltd is on a retainer and we give them regular advice in respect of contentious and non-contentious employment matters. Sally King is the Managing Director of the company and you will see on file an email from her (**Document 2**). Please contact her and advise her accordingly.
2. **Home Security Today Ltd** (file ref: HST/MW/192/20). We have on file an ET1 from a previous employee, Jasmine Franks, who has been dismissed (**Document 3**).

Jasmine Franks had been employed by Home Security Today (HST) for a relatively short period of time (since 14 August 2018), installing alarm systems in private households. In the previous six months, a number of customers had complained that small amounts of money had gone missing from their homes at the time their alarm system was being fitted. There are four employees in each team and HST strongly suspected that the thief was Jasmine Franks. The other three employees in that team have worked for the company for a number of years without any issues. Jasmine Franks had previously been given a warning on 22 January 2020 for inflating her expenses claim.

After HST had carried out a rather brief investigation, which did not clearly show that Jasmine Franks was the thief, she was asked to attend a disciplinary meeting on 24 September 2020, with the Managing Director, Brian McCloughlin. This was confirmed in writing to Jasmine Franks, by a letter which stated what the disciplinary meeting concerned. At the meeting, Jasmine Franks threatened Brian McCloughlin, by saying she hoped that his house had a good alarm system, and then she walked out.

On 25 September 2020, Brian McCloughlin wrote to Jasmine Franks, confirming the dismissal and informing her of her right to appeal. There has been no further communication with Jasmine Franks, who did not take up her right of appeal. HST wishes to defend the claim. Please consider the next steps on behalf of our client.

3. **Fiona Santo** (file ref: FS/MW/114/20). On the file is an Attendance Note (**Document 4**) concerning the potential claim. Please contact Fiona and arrange a further interview.
4. You will also find on your desk a memorandum from Kristen concerning the law clinic (**Document 5**). As I will be unable to cover the law clinic this week, I would like you to do so.

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DOCUMENT 2

EMAIL FROM SALLY KING OF TOPTOTOE LTD

From: S.King@ToptoToe.co.uk
To: Malee.Wattana@Kempstons.org
Time: 14:54
Date: [Date]
Subject: Employment Advice

Hello Malee, I hope you are well.

I have a couple of employment issues which I urgently need you to advise on.

First, I potentially have a problem with staff not being willing to work extra hours. We are very much operating flat out. The last few weeks have been especially tough and I require staff to work longer hours to meet the orders. This is likely to be the case until I can take on more staff to meet the demand. Some of the workers are stating that they are not prepared to work the extra hours, which is really impacting on the business. The extra hours mean they work only 55 hours per week, and I am paying them!

Second, Holly Surtees our new designer, previously worked for a competitor of ours, Simply Fashions, as their chief designer. We have received a letter from the solicitors of Simply Fashions **[not reproduced]**, stating that Holly is in breach of her contract and that she is not to work for us until six months are up. The relevant term in her contract with Simply Fashions states:

'4.1 The employee expressly agrees that for a period of 6 months after the termination of this contract they will not work in any capacity for a competitor in the United Kingdom'.

We cannot wait six months. We need Holly to start designing the new range immediately.

If you could get back to me as soon as possible, I would be grateful.

Sally King
Managing Director
ToptoToe Ltd

DOCUMENT 3

EXTRACT FROM ET1 FORM OF JASMINE FRANKS

8.2 Please insert the background and details of your claim in the space below.

The details of your claim should include **the date(s) when the event(s) you are complaining about happened**. Please use the blank sheet at the end of the form if needed.

1. I was employed by the Respondent on 14 August 2018 as an Installations Operative, fitting alarm systems.
2. On 24 September 2020 I was dismissed by the Respondent and was told that this was because of my conduct.
3. I was unfairly dismissed.
4. I was not aware of the reason why I was asked to attend a disciplinary meeting on 24 September 2020. I was not informed that there was an investigation being undertaken and that I was accused of theft.
5. When I entered the Managing Director's office, I was shouted at and informed that 'the company does not want a thief as an employee' and 'it's best that people like you work elsewhere, you are sacked'. I left the premises immediately. I was shocked at the ferocity with which I was dismissed and was very upset at the manner of my dismissal.
6. I have never previously in my employment with the Respondent had a verbal or written warning.
7. I was not given any opportunity to put my side, or given any opportunity to appeal.
8. I was not paid one month's pay and my outstanding holiday pay.

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DOCUMENT 4

ATTENDANCE NOTE RELATING TO FIONA SANTO

Attendance on: Fiona Santo
Attended by: Malee Wattana
Date: [Today's date]
Time taken: 20 minutes – attendance
2 minutes – dictating attendance note

Attending Fiona Santo. Fiona recently applied for a trainee lawyer role at Springer & Springer Solicitors. She was invited to attend an interview and further testing through a multiple-choice psychometric test.

Fiona has Asperger's syndrome and consequently she requested that she undertake the test through an alternative format. She also had concerns about the interview itself.

Fiona was informed that it would not be possible to undertake a different test, as there was no alternative format available. She was informed that as she was not willing to complete the test, there was no point in her attending the interview.

Fiona has been left very disappointed by the attitude of the firm. She made it clear in her application that she had Asperger's syndrome, although she admits she did not make it clear as to how this could affect her ability to complete the interview process.

DOCUMENT 5

MEMORANDUM FROM KRISTEN ILKLEY TO TRAINEE LAWYER

To: Trainee Lawyer
From: Kristen Ilkley, Secretary to Malee Wattana
Date: [Today's date]
Re: Advice Clinic

Malee has asked me to write a brief memorandum about who you will be seeing at this week's advice clinic. The following people have confirmed their attendance:

1. Sandy Roberts 5.00 pm

Sandy Roberts was sacked by the manager of the local swimming pool last week. He had worked there for the last five years as a lifeguard. He is very distressed about how he was sacked: he was shouted at and told to leave, with no reason being given as to why he was no longer required.

2. John Barthing 5.30 pm

John Barthing has worked for the past four years as a shop assistant in the local supermarket. He wants to reduce the number of hours he works, as he has caring responsibilities for his elderly mother.

3. Priya Chatterjee 6.00 pm

Priya Chatterjee has been informed that the Kempston office of the company she works for is being closed and she will have to move to the Medshire office, which is 50 miles away. She does not want to move offices and would instead like to take redundancy.

4. Andrew Davies 6.30 pm

Andrew Davies has just become a new father and would like to spend some time with his newborn daughter and his partner. Andrew has not asked his employer yet whether he can take some time off to spend with his family, and is interested in knowing whether he has any rights to do so.

End of Case Study Materials