

EMPLOYMENT TRIBUNALS

Case Number: Various
Your Ref:
Date: 15 February 2002

TO: REPRESENTATIVES IN BANKING SECTOR

Dear Sir/Madam

Re: Part-time Worker Pension Cases - Banking Sector Directions Hearing

At the directions hearing on 14 February, after hearing submissions for UNIFI, FDR and Signet, Abbey National and the National Westminster Bank and after receiving written submissions on behalf of Northern Rock and Birmingham Midshires, the following directions were made: -

1.1 Allan -v- Northern Rock (6404504/00) and Brown -v- Northern Rock (6403445/01) are to be test cases on test issue number 3, either as examples of private sector TUPE transfers or transfers under the Building Societies Act.

1.2 By not later than 4.30 pm on Thursday 28 February, if the Respondent is to assert that the transfer took place under the Building Societies Act as opposed to the Transfer of Undertakings (Protection of Employment) Regulations 1981, it is to amend its Notice of Appearance to so aver.

1.3 By not later than 4.30 pm on Thursday 28 February, the Respondent is to provide the Applicants' solicitors with copies of all documents concerning the transfer of the Applicants' employment to Northern Rock which were sent to employees at the time of the transfer.

2. The question of whether FDR are to be joined in the test cases is deferred until the directions hearing scheduled to take place at London Central at 10 am on Friday 8 March. On 8 March, if they still require FDR to be joined as respondent, the Applicants will be required to demonstrate that the FDR cases raise issues which might reasonably be regarded as being different from, or not covered by, the issues raised in the test cases in the electricity supply sector or the cases against Northern Rock Building Society, and are likely to be of general application on test issues 3(a), (b) and (c). If the Applicants do intend to apply to join FDR as respondent they are to give notice in writing to FDR and to the tribunal, together with their reasons for so applying by, not later than 12 noon on Monday 4 March.

3. Evans -v- Halifax plc (as substituted for Birmingham Midshires Buildings Society) (140003/01) and Mace -v- Halifax plc (524901/95) are to be test cases for test issues 5.1 and 5.2(a).

4. No cases involving Abbey National plc are to be listed as test cases.

5.1 In connection with cases against the Natwest Bank on the stable employment relationship point, the parties are to endeavour to agree a range of cases illustrating different patterns of interruption in employment which are unlikely to be illustrated by cases on the same point from the public sector.

5.2 To this end, the Applicants will serve on the Respondent as soon as practicable a statement from each Applicant in the selected test cases, together with any supporting documents, describing that Applicant's personal pattern of working with dates wherever possible. As soon as practicable thereafter, the Respondent is to indicated in respect of each Applicant

(a) whether the statement is agreed

(b) whether, without prejudice to future hearings or negotiations on specific factual disputes, the statement can be agreed for the purposes of the test issues only

(c) if the statement is not agreed, the Respondent is to serve on the Applicants' solicitors their contrary factual assertions, together with supporting documents

(d) whether the Respondent concedes that the pattern of working described by the Applicants discloses the existence of a stable employment relationship

5.3 The parties are to report progress in carrying out direction 5.2 at the directions hearing on 8 March. A further directions hearing on this issue will be held at London Central at 12 noon on Tuesday 9 April if required.

Yours faithfully

CLAYTON HAYWARD
for **Regional Secretary to the Tribunals**

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