Moore v President of the Methodist Conference – Methodist minister was an employee

The Employment Appeal Tribunal (EAT) in the UK has recently held that a Methodist Minister was an employee – showing just how far the view of the Tribunals and Courts towards men and women of the cloth has changed over recent years.

In the House of Lords in *Davies v Presbyterian Church of Wales [1986] AC 280*, Lord Templeman considered that while it was "*possible for a man to be employed as a servant … to carry out duties which are exclusively spiritual*": :

> *"The duties owed by the pastor to the church are not contractual or enforceable. A pastor is called and accepts the call. He does not devote his working life but his whole life to the church and his religion. His duties are defined and his activities are dictated not by contract but by conscience. He is the servant of God. … an [employment] tribunal cannot determine whether a reasonable church would sever the link between minister and congregation."*

This view changed over time. In *New Testament Church of God v Stewart [2008] ICR 282* the Court of Appeal upheld a tribunal's decision that a pastor had been an employee of his church.

An employee is "a*n individual who has entered into or works under (or, where the employment has ceased, worked under) a contract of employment"* (*section 230(1)*. A contract of employment is "*a contract of service or apprenticeship, whether express or implied, and (if it is express) whether oral or in writing*" (*section 230(2), ERA 1996*).

Facts of Moore

In 2003, Ms Moore was ordained a Methodist minister and in 2006 she was appointed Superintendent Minister on the Redruth Circuit for a five-year term. Ms Moore was subject to annual appraisals and the possibility of disciplinary action, and received a stipend (salary), manse (accommodation furnished to a minimum standard) and a pension from the Church. She also received holiday pay and was entitled to claim sick pay. The Church issued a P60 to Ms Moore at the end of each tax year as well as payslips which included an "employee reference number" and showed that it had deducted tax and National Insurance Contributions.

In 2009, Ms Moore resigned and brought an unfair dismissal claim against the President of the Methodist Conference (designated by statute as the proper person to defend claims against the Church – The Methodist Church is constituted by a Deed of Union made by the Methodist Church Act 1976. The Church is governed by the Methodist Conference.). The Employment Tribunal held at first instance that her claim was based on substantially the same facts as those considered by the Court of Appeal in the earlier decision of *President of the Methodist Conference v Parfitt [1984] ICR 176* - which essentially held that ministers could not be employees due to the absence of intention to create legal relations between the parties.

The EAT allowed the appeal, and held that Ms Moore had been an employee and remitted the case for the employment tribunal to decide her unfair dismissal claim on its merits.

The EAT suggested that:

> *"A possible reconciliation might be that whereas it would have been reasonable to conclude in 1983 that the parties to the arrangements found in Parfitt did not intend to create legal relations, such a conclusion would not be reasonable twenty years later – though we cannot conscientiously say that any such reasoning clearly appears in the opinions in Percy". (paragraph 53(4))*

HR professionals who advise churches and religions should take detailed legal advice if faced with an employment tribunal claim. We have a specialist expertise on religious matters at Bargate Murray – please contact Philip Henson.

For the full judgment:
http://www.bailii.org/uk/cases/UKEAT/2011/0219_10_1503.html

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