

Man fairly sacked over unauthorised religious absence, court rules

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A court has dismissed a man's claim for unfair dismissal after he was sacked for taking an unauthorised period of absence to attend a course for Jehovah's Witnesses.

The claimant, Mr Da Costa, argued that his sacking from a branch of Boots in north London amounted to unlawful discrimination under the Equality Act 2010.

Da Costa and his wife took an eight-week absence from their jobs as customer assistants to attend a course on running Jehovah's Witnesses activities in Madrid. Da Costa had only one week of paid leave remaining and had been told he could only take three weeks' unpaid leave.

Both he and his wife were subject to disciplinary action and sacked when they returned to Britain, although only Da Costa himself was named as a claimant in court.

The court [found](#) that the refusal of permission to take the extended period of unpaid leave had "nothing whatsoever to do with the claimant's religious beliefs". It said it was "satisfied that a hypothetical comparator would have been treated the same as the claimant" regardless of religion.

The tribunal said Da Costa had been dismissed because "he had deliberately absented himself without permission". It said he was aware his absence would have "a serious adverse impact" on the shop in Brent Cross due to the lack of cover for his and his wife's positions.

The court found that the employer had reasonable grounds to believe Da Costa was guilty of misconduct and had carried out as much investigation as was reasonable in the circumstances.

Da Costa claimed other staff had been granted long periods of unpaid leave and he had been treated differently from him and his wife. The court found these claims were either based on factual errors or related to materially different circumstances.

A National Secular Society spokesperson said the case acted as "a reminder that religion is rightly not a get-out-of-jail free card".

"This tribunal appears to have reached a sensible conclusion. Businesses must retain the right to refuse requests for unpaid leave, provided they apply that right evenly and fairly. And it is reasonable to sack someone who defies a refusal.

"Those principles shouldn't be suspended simply because religion is involved. Giving special privileges based on religion can jeopardise businesses' productivity and ability to function. It also runs the risk of undermining solidarity between colleagues, if less assertive workers are left picking up others' workload."

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