

# Holiday pay, sick leave and safety

Following last week's article, we now look at leave and holidays, safety at work and non-discrimination.

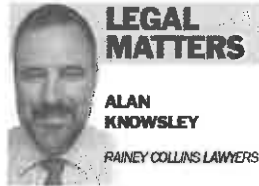
**Leave and holidays**  
Most employees are entitled to leave under the Holidays Act 2003.

That includes sick leave and bereavement leave.

Employees who have worked for their employer for more than six months at one time are entitled to five days' sick leave each year.

It makes no difference if you are on a fulltime, part-time or fixed contract. If you have not been working for six months then you can ask your employer for annual leave or take unpaid leave. Casual employees can only get sick leave if they have been working on average at least 10 hours per week, or 40 hours per month, including at least one hour per week, for six months.

The same conditions apply for bereavement leave. If an immediate family member (spouse, parent, child, brother, sister, grandparent, father-in-law or



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mother-in-law) dies, an employee is entitled to at least three days' paid bereavement leave. If someone else close to you dies, an employee is entitled to one day of paid bereavement leave, if their employer agrees they have experienced a loss.

Employees, including part-time and casual workers, are also entitled to four weeks' annual holidays after they have worked for one year.

Sometimes, if it is not practical for employers to provide you with annual leave, they will top up your regular wages with 8 per cent of your weekly earnings. This often occurs for people with short

fixed-term or casual contracts.

If your holiday pay is included in your regular wages it must be separately itemised each time.

In addition to annual leave, employees have 11 paid public holidays every year. If an employee normally works on the day of the public holiday but has the day off, they will be paid for that day. If they do work, at the request of their employer, they will be paid time and a half for the hours worked and will receive a full day in lieu.

If you have a problem with being paid, speak with your employer about those issues and hopefully you can come to a solution. You can take a support person with you.

If those meetings are unsuccessful the labour inspector investigates and enforces breaches of any minimum entitlements, such as the minimum wage, holiday pay, or wage deductions.

#### Safe workplace

You should feel safe at work. The employer has the duty to keep

all employees safe in the workplace.

They must identify risks and hazards. Once identified the risks should be eliminated as far as practical. If the risk cannot be eliminated, it should be isolated or minimised.

If an employee feels unsafe, they should notify their employer. Many workplaces will have employee health and safety representatives to talk to. If the safety issue is not resolved, the employee could contact WorkSafe, the government agency set up to administer health and safety legislation or get legal advice.

#### Non-discriminatory workplace

Employees should not be discriminated against on the basis of gender, age, marital status, religion, race, family status, ethical belief, political opinion or sexuality.

If an employee is discriminated against, and the employer is not interested in resolving matters, the employee can either contact the Human Rights Commission or

file a personal grievance. Getting legal advice first can be helpful.

Both processes usually result in mediation. Mediation is a process where an employer and employee come together in the presence of a neutral, independent third party and discuss problems they are experiencing within the workplace. Mediations are confidential and aim to resolve the problem by looking at the parties' underlying interests.

A dispute relating to employment usually goes through mediation provided by the mediation service of the Ministry of Business, Innovation and Employment. Mediations can cover issues including problems at work, or unjust dismissals. If mediation is unable to resolve a dispute, a personal grievance claim may be taken to the Employment Relations Authority.

Column courtesy of Rainey Collins Lawyers, phone 0800 733484. If you have a legal inquiry you would like discussed in this column email [aknowsley@raineycollins.co.nz](mailto:aknowsley@raineycollins.co.nz).