

Misbehaviour at the office Christmas party?

January 2019

Litigation involving the antics of misbehaving employees at the office Christmas party have not only shown that sometimes fact is stranger than fiction, but that on occasion the long-awaited Christmas party can go badly wrong.

Whilst it would be hoped that most employees return to work following a Christmas break with nothing more remarkable than the post-Christmas blues, on occasion, employers can be dealing with the fallout from an office party disaster.

Employers can be held vicariously liable for discriminatory acts of employees – even if the event is held off site and out of normal working hours.

The same can be said for liability for injury to a member of staff inflicted by another. Recently, in the case of [Bellman v Northampton Recruitment Limited](#), the Court of Appeal ruled that a company was vicariously liable for the conduct of its Managing Director at a Christmas party, following a physical attack on one of the employees by the MD, leaving the employee severely disabled.

In an equally strange set of facts, in 2015 a claimant brought an unfair dismissal claim in *Westlake v ZSL London Zoo*. At London Zoo's Christmas party, zookeeper Ms Westlake got into a fight with a colleague over a love triangle involving another zookeeper. The exact details of the incident were disputed, but one of the individuals was hit in the face with a glass that Ms Westlake was holding. London Zoo decided to dismiss Westlake for fighting with a colleague, with the other member of staff involved given a final written warning. The tribunal stated that since the employer was unable to determine who started the fight, it was legitimate to dismiss both individuals or give both final written warnings – it was unfair to treat them differently. The unfair

dismissal claim was upheld, but the tribunal decided to reduce the award to zero because of the conduct of the claimant.

A further example of the perils of the Christmas party is *Bhara v Ikea Limited*, in which, what is described as a tussle took place between two colleagues. Mr Bhara was dismissed, and it was found that the dismissal was within the range of reasonable responses and was therefore fair, even when the employees involved in the incident did not feel it was particularly serious.

These cases are ample demonstration of the perils of the office Christmas party and the potential risks it can pose for employers. If misconduct does occur at the Christmas party, employers should ensure that they carry out a reasonably thorough investigation, prior to any disciplinary action. Furthermore, in advance of the Christmas party, at risk of being accused of being the "Fun Police", employers should have a clear policy on what standard of behaviour is acceptable and ideally issue a statement to employees in advance of the party to remind all staff.

For further advice and information contact [Christine Slevin](#) today.

Christine Slevin
020 7299 6920
christine.slevin@riaabg.com
www.riaabarkergillette.com



Note: This is not legal advice; it is intended to provide information of general interest about current legal issues.

