



landmark Supreme Court ruling on pay deductions

The NASUWT has won a landmark victory which protects all teachers in sixth-form colleges who choose to take lawful industrial action from excessive deductions of salary.

In 2011, NASUWT members Jeremy Panko and Stewart Monk were employed by King Edward VI College as teaching staff (Peter Hartley was also employed at the relevant time but has since retired). Stewart Monk was the College's NASUWT representative.

These members, along with other members of the NASUWT, took part in a day of strike action. The College made deductions from their pay, calculated on the basis of 1/260th of their annual salary. The NASUWT argued that this was incorrect and that deductions should have been made on the basis of 1/365th.

The NASUWT issued a claim in 2013 in the County Court on the basis that the College had acted in breach of contract. The Union contended that, as the members' contracts did not provide fixed hours of work (as they were required to complete marking and preparation in undirected time), the Apportionment Act 1870 applied, so that the correct deduction should have been 1/365th.

The College maintained that it was entitled to make deductions at the rate of 1/260th of our members' annual pay, i.e. the total number of weekdays in a calendar year.

After our claim was issued, the High Court ruled in favour of a college employer on a case taken by another union.

Because of the implications of the deductions made by the College for teachers taking strike action, the NASUWT decided that, despite the unhelpful judgement in the High Court on the other case, which the other union decided not to appeal, and because the County Court would have been obliged to follow the High Court ruling, we should settle the case in the County Court, with the Sixth Form Colleges Association, and seek leave to appeal to the Court of Appeal.

The NASUWT made an application to the Court of Appeal, leapfrogging the High Court, and was successful in persuading the Court of Appeal to hear our case on 19 March 2015.

Disappointingly, the Court of Appeal ruled against us, but on the basis of our counsel's advice, an application was submitted by the NASUWT to the Court of Appeal requesting leave to appeal the decision. This was rejected by the Court but a subsequent application to the Supreme Court was accepted.

The NASUWT won in the Supreme Court.

This is a landmark victory protecting all teachers in sixth-form colleges who choose to take lawful industrial action from excessive deductions of salary.

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