

Kwok Wing Sun v Law Yung Kai Trading as Wan Kou Metal & Plastic Factory

DCEO 2/2007

Background

The Plaintiff had been having ventricular septal defect and renal disease for years. Though he needed to attend medical check-up regularly, his work ability was unaffected according to his doctor's opinion. He was employed as a family driver by the Defendant in May 2005 and he passed the three-month probation period in August 2005.

In September 2005, the Plaintiff submitted a sick leave application form for his medical check-up to the wife of the Defendant. She became angry and asked for details of his disabilities. From that moment on, she began to pick on the Plaintiff and imposed new restrictions on his work. In January 2006, the Plaintiff was dismissed by the Defendant without being given any reason.

The Plaintiff brought proceedings against the Defendant under the Disability Discrimination Ordinance (DDO).

The Court's decision

The Court was satisfied that the Plaintiff had provided sufficient evidence to substantiate his disability discrimination claim. The Court took the view that there was no sufficient reason to dismiss the Plaintiff. The Court found that the Plaintiff was unlawfully discriminated against and dismissed on the ground of his disabilities.

As a result, the Plaintiff was awarded a total of HK\$98,500, and the breakdown of the damages was as follows:

Loss of income	HK\$ 43,500
Injury to feelings	HK\$ 55,000
	<hr/>
	HK\$ 98,500
	<hr/> <hr/>

For the loss of earnings, the Court decided that the Plaintiff should recover six months' loss of income as the Court viewed that he should be able to find alternative employment with a similar salary within that period. For injury to feelings, the Court took into account the length of time the Plaintiff had worked for the Defendant and the treatment he had received during his employment period.