

NEWS REPORT

Date: 09 May 2014
Expert: Rikki Holtmaat
Title: Refusal to comply with clothing requirements leads to dismissal
Country: The Netherlands
Context
Issue at stake: Muslim pedagogical employee dismissed for refusing to comply with hospital's clothing requirements
Ground of discrimination: Religion
Source: District court Rotterdam
Field: Employment

Content

Case law: The District Court Rotterdam has passed a judgment in a labour dispute between a female pedagogical employee and her employer, the board of a hospital. In this case, a conflict arose because of the employee's refusal to comply with the clothing requirements (wearing short sleeves), which were changed in the aftermath of the outbreak of a bacterial infection. The clothing requirements were recommended by a commission of national experts, and were adopted in a directive issued by the Working Group on Infections.

The employee however, on the ground of her religious beliefs, refused to work with short sleeves, as this is prohibited by the Islamic dress codes she adheres to. She put forward that the clothing requirements did not apply to her function, since she did not have much direct physical contact with patients as a pedagogical employee, as she mostly supported patients' parents. As a compromise, she proposed to change her job to such an extent that she would not have any direct physical contact. The employer deemed this impossible and ultimately decided to ask for her dismissal.

The Court judged that the clothing requirements, although indirectly discriminatory on the ground of religion, could be justified by the legitimate aim of preventing the risk of infection. The employee's refusal to comply with the hospital's clothing requirements was therefore found to constitute sufficient ground for dismissal. The court did not find blame or guilt on the part of the employer for the termination of the employment contract. Therefore, the employee only received the basic severance payment for the loss of her job.

Internet link source: District Court Rotterdam, 21 January 2014, ECLI:NL:RBROT:2014:2368. The case's full text can be retrieved at <http://uitspraken.rechtspraak.nl/>, accessed 9 May 2014, using the case's ECLI-number.