

‘Gay cake’ discrimination case ruled inadmissible by ECHR

This case has been rumbling on for over seven years. It relates to a bakery’s refusal to make a cake with the slogan ‘support gay marriage’.

07 January 2022

This now infamous case has been rumbling on for over seven years. It relates to a bakery’s refusal to make a cake with the slogan ‘support gay marriage’ on it for Mr Gareth Lee.

Whilst Mr Lee had previously successfully argued that the bakery’s refusal to undertake his request was direct discrimination on the grounds of his sexual orientation at both the County Court and Court of Appeal within Northern Ireland, the Supreme Court then overturned these decisions and held that the Mr Lee’s discrimination claim should be dismissed.

The Supreme Court ruling was related to articles 9 and 10 of the European Convention on Human Rights, which refer to freedom of religious beliefs and freedom of expression. Ultimately, the Supreme Court’s assessment was that the Christian bakers were not obligated to provide anyone with a product bearing a message that they profoundly disagreed with. Therefore, whilst it would have been discriminatory to refuse to supply Mr Lee with a cake because of his beliefs or sexual orientation, the bakers retained the right to not express a particular opinion that they disagreed with, and so the claim was dismissed.

Mr Lee subsequently [took his case to the European Court of Human Rights](#) which also dismissed his case. The Court said that the case was inadmissible due to Mr Lee not invoking his rights under the ECHR at any point during his domestic proceedings in the UK courts. It decided that convention arguments must be raised explicitly before domestic authorities, prior to being brought to the European Courts. This has now seemingly brought to an end a claim that has raised serious questions around religious freedom and discrimination law.

Some will see this as a missed opportunity to consider the discrimination issues at the heart of this case, but nevertheless, this once more demonstrates the subtleties and difficulties behind bringing and defending discrimination claims.

Employers and business alike, need to remain alive to the possibility of discrimination within the workplace, ensuring that they are acting as promptly and thoroughly as possible, all while being assisted by robust policies and procedures.

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