EMPLOYMENT TRIBUNALS

Claimant: Mr A Ntiege

Respondent: Barnsley Metropolitan Borough Council

HELD AT: Sheffield **ON:** 6 & 7 July 2017

BEFORE: Employment Judge Rostant
MEMBERS: Mrs B Hodgkinson
Mr D Fields

REPRESENTATION:

Claimant: In person
Respondent: Mr Lewis of counsel

JUDGMENT having been sent to the parties on 17 July 2017 and written reasons having been requested in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the following reasons are provided:

REASONS

1. By a claim brought to the Tribunal on 5 December 2016 the claimant complained of unfair dismissal, race discrimination and disability discrimination.

2. On 24 January 2017, the respondent's application to have those claims struck out or on the alternative a Deposit Order paid came before me and in consequence of my Orders a number of the claims were either dismissed or withdrawn.

3. The matter came before me again on 16 February 2017, at which point it was clarified that there were three remaining claims. One complaint under section 15 of the Equality Act 2010 by which the claimant alleged that the respondent had subjected him to a detriment by proceeding with the decision

to dismiss him at a meeting which he could not attend by reason of his ill health arising from his disability and two claims of failure to make a reasonable adjustment, one in relation to the claimant's workstation and the other in relation to the claimant's workload.

4. At that Preliminary Hearing, it was established that the claimant wished to assert that he was a person with a disability by reason of two separate impairments, one lower back pain and the other anxiety and depression. I made orders that the claimant disclose to the respondent all the medical evidence upon which she would wish to rely. In paragraph two of the Case Management Order I also ordered that the claimant supply an impact statement and the Order described what the contents of that impact statement should be. The respondent was then given the opportunity to respond in writing saying whether or not the issue of disability in respect of either or both of the alleged impairments was conceded.

5. The respondent did write to the Tribunal saying that disability was not conceded for either impairment and the matter came to hearing on 6 July 2017. The hearing was set down to determine the preliminary issue of disability and the substantive issues of whether or not the claims dependant upon disability succeeded. At the outset of the hearing the parties agreed that it would be appropriate for the Tribunal to first determine the issues of disability and the Tribunal proceeded to hear evidence from Mr Ntiege.

6. Mr Ntiege relied upon his impact statement at 337 to 345 of the Tribunal's bundle and the extensive medical evidence contained between pages 302 and 336 and 429 to 467 the latter being further documents disclosed well after the appointed time.

7. Despite the fact that Mr Ntiege had had it carefully explained to him what was required of an impact statement, the statement provided to the respondent and relied on by Mr Ntiege as his witness evidence on the point of disability is remarkable for its failure to address the issues of substantial adverse impact. Those issues were only eventually addressed by Mr Ntiege being given an opportunity to add supplementary evidence whilst giving evidence.

The law on disability

8. Section 6 of the Equality Act 2010 defines disability. It requires satisfaction of three elements, the first that there be an impairment mental or physical, the second that that impairment have a substantial adverse effect upon a person's ability to carry out day to day activities and the third that the substantial adverse effect must be long-term. It is clear from the statute that the burden rests upon the claimant to prove the fact of his disability.

9. **The Tribunal's findings on disability**

    9.1 The claimant is a person with a disability arising out of his lower back problem.

    9.2 The respondent in relation to the claimant's allegation that he was disabled by reason of his lower back problem did not challenge the fact that the claimant has a back impairment and indeed that would have

been an extremely difficult case to make since there is a large body of medical evidence to establish that the claimant has a disc bulge at L2/3.

9.3 The Tribunal makes the following findings of fact.

9.3.1 In 2010 the claimant was seeking to establish a career in the army and during the course of induction training suffered a lower back disc bulge which caused his discharge from the army.

9.3.2 Since that time the claimant has always had social housing which is accessible in relation to his back problems.

9.3.3 Since that time the claimant has continuously been in receipt of a significant regime of anti-inflammatory and analgesic drugs. Most recently those are Buprenorphine on a 20mg patch, Co-Codamol up to two four times daily 200mg tablets, Ibuprofen 400mg tablets taken three times a day and Pregabalin 150mg capsules. All of those drugs are aimed at pain management either through their anti-inflammatory effect or through their analgesic effect.

9.3.4 The Tribunal finds as a fact that the claimant suffered back and leg pain at the relevant time. We find as a fact that this was to some extent controlled by medication.

9.3.5 We find as a fact that at times the claimant's back would go into spasm (see for example page 113).

9.3.6 We find that on those occasions the claimant was significantly incapacitated by pain to the extent that he would be unable to work for a period of time.

9.3.7 The Tribunal accepts on the balance of probabilities that the claimant's spasms were more likely to occur without the controlling effect of medication.

Although Mr Lewis invited the Tribunal to treat the claimant's evidence on this matter and other matters with scepticism, given various challenges to his credibility, the Tribunal would observe that it seems to us likely that on a sheer commonsense basis that the purpose of prescribing significant medication to control pain is precisely to do that and it is commonly known that muscle spasm is the body's protective mechanism to defend the body against movement causing significant pain. The Tribunal therefore thinks it entirely probable that the effect of the medication was to reduce the number of occasions on which the claimant's back went into spasm.

9.3.8 Even when the claimant was not in spasm, the Tribunal accepts that he had some limitation on his ability to stand or sit for long periods of time.

Again, the respondent invited us to treat that evidence with scepticism. Nevertheless, we would observe that the disc bulge is in the lumbar back and the claimant describes the effect of that as amounting to pain in the lower back and sciatic pain

radiating down his left side. Moreover, he has had that description credited by medical professionals. It is within the Tribunal's knowledge that those are common effects of damage to the lumbar spine and that they are exacerbated by maintenance of any particular posture for periods of time.

9.3.9 The Tribunal takes the view that on the same basis as set out above such limitations are likely to be significantly exacerbated by the absence of medication for the purpose of the medication being to dampen the effects of pain brought on by retaining postures.

The Tribunals conclusion on issue of significant adverse effect

9.4 The respondent challenges the claimant's claim to be disabled on the basis that although it accepts the existence of the impairment it does not accept that the claimant suffered significant adverse effect. Mr Lewis placed reliance upon the opinion of Dr Oliver in response to the claimant's line manager's request to express a view as to whether or not the claimant met the definition of disability. That matter is dealt with in greater detail below. Dr Oliver's opinion seems to us to suffer from two difficulties. First of all it is expressed baldly without setting out any of the evidence upon Dr Oliver relied at in arriving at his conclusion. Secondly it appears to us to entirely ignore the issue of deduced effect. The Tribunal must consider the effect on the claimant's physical limitations of not taking the medication which he has prescribed and we have done in our findings of fact as set out above.

9.5 We do accept that there is some evidence which appears to contradict Mr Ntiege's case on its facts and this is the challenge to credibility upon which Mr Lewis relies. For example, he does appear to have been able to carry on his university placement work whilst being signed off as sick from his work for the respondent during the months of June and July 2016. The Tribunal did not find Mr Ntiege's explanation as to why two jobs which appear to us to be similar in the physical demands that they placed upon him should be differently affected by the same medical condition. Mr Ntiege has failed to adduce any evidence to suggest that work place stress was likely to increase the risk of spasm or exacerbate his physical condition although the Tribunal does accept that there is evidence that improved mood can improve the ability of a person with long term chronic pain to cope with the pain better. There is evidence for example that Mr Ntiege was being treated in a holistic way by the pain clinic and that is doubtless based on the commonly understood position that the better a person's mood the better they can cope with pain. That, however, is very different it seems to us to suggest that a stressful work situation is more calculated to bring on back spasms. Having said that, a number of medical professionals have been prepared to credit the claimant's symptoms of pain and that cannot be ignored. Taken as a whole, the Tribunal considers that the evidence supports the claimant's contention particularly when bearing in mind the deduced effect doctrine.

9.6 As to the issue of long term, it is evident that the claimant's symptomology has been present since 2010 and his back problems have been affecting the clamant at least until the moment of his dismissal in 2016. Taking the evidence overall the Tribunal has concluded that the claimant meets the definition of disability in relation to his back.

The Tribunal's decision on the issue of mental impairment and disability

9.7 To the extent that the claimant wishes to rely upon his mental health as an impairment which is disabling the definition of disability requires the claimant to establish a mental impairment. Sine the decision of the Employment Appeal Tribunal in **J v DLA Piper LLP** 2010 ICR 1052 it has been well understood that there is an important distinction to be made between low mood, brought on by a response to adverse life events, or indeed as a response to chronic pain, and something which might be described and is described in the Piper decision as "clinical depression". The Tribunal accepts that the claimant did have something which was diagnosed as depression in 2012. There is evidence of his being referred for counselling in that regard and, at page 261, evidence of the fact that he was being treated with anti-depressants at that time. However, during the time that the claimant was employed by the respondent there is no evidence that he was ever diagnosed as suffering from a mental illness. The Tribunal takes the view that the only evidence as to the claimant's mental health affecting his ability to work was that which was provided by the doctor's sick note. In January and February 2016, the claimant's condition is described as "nervous debility".

9.8 As we now understand, that was an adverse reaction to a very distressing life event, namely that the claimant's partner miscarried. Thereafter however, all of the evidence shows that the claimant recovered and was able to return to work and that the period during which he was incapacitated as a result of that adverse reaction was limited to some six weeks or so.

9.9 The claimant has told us that in fact his assertion to Dr Oliver that he was fit to continue and his refusal of counselling at the time was perhaps unwise and was evidence of his attempting to soldier on in the face of adversity rather than to accept the fact that he was probably ill and rather than to return to the very low point in his life represented by the depression that he had suffered in 2011 and 2012.

9.10 The difficulty for the claimant is that all of the authorities require that the claimant adduce medical evidence in support of the existence of a mental condition. There is no such evidence in this case and the Tribunal is, therefore, in the face of all of the evidence to the contrary unable to conclude that the claimant was suffering from clinical depression or anxiety at any point during his work. Dr Oliver did not give as his opinion that the claimant was clinically depressed and the claimant's General Practitioner did not treat him as if he were. We of course accept that his mood may have been low in relation to the

distressing life event and later on because of his unhappiness at work. Nevertheless, that is not the same as concluding that the claimant satisfies the burden resting on him to show the existence of a mental impairment. In short, whilst it may be the case that the claimant was at some point in the past disabled by reason of a mental impairment, namely depression, he was not, during the period with which we are concerned so disabled and it follows that there was no obligation to make a reasonable adjustment in respect of that disability. That must dispose of one of the two complaints of failure to make a treasonable adjustment as set out above.

10. The remaining substantive issues

10.1 The Tribunal having delivered that judgment, the parties agreed that that left the Tribunal to consider two substantive issues. One was the section 15 complaint about the decision by the respondent to proceed with a meeting to consider the claimant's dismissal in the claimant's absence, where it is alleged that the claimant's absence was for a reason arising out of his back pain disability. The other is a complaint of a failure to make a reasonable adjustment in relation to some physical feature of the respondent's workplace that put the claimant at a disadvantage, namely his workstation comprising desk and chair.

The law

10.2 Section 15 of the Equality Act 2010 provides that an employer discriminates against a disabled employee if the employee is treated unfavourably because of something arising in consequence of the employee's disability and that the employer cannot show that the treatment is a proportionate means of achieving a legitimate aim.

10.3 In this case, the respondent asserts that the claimant cannot show that his failure to attend the dismissal meeting arose out of his disability, asserting instead that the claimant was fit to attend the meeting and, in the alternative, that the decision to proceed with the meeting was nevertheless a proportionate means of achieving a legitimate aim. The legitimate aim was said to be that of ensuring appropriate staffing levels and that the respondent had employees doing necessary tasks who were capable of committing to that task. As to the proportionately of the decision to proceed with the meeting, that arose out of the circumstances leading up to that meeting, set out in our findings of fact below.

10.4 Section 20 of the Equality Act places a duty upon the respondent to make reasonable adjustments where a physical feature of the workplace puts the disabled person at a substantial disadvantage in relation to a relevant matter. In this case, it is not in doubt that the claimant's desk and chair represent a physical feature and that if that physical feature caused the claimant discomfort or pain arising out of his disability then that is a relevant matter. The respondent asserts that the claimant cannot show that he was put at a disadvantage by the

desk and chair with which he was provided. It denies that there was a reasonable adjustment to be made and, in any event asserts, as it does in relation to the claim under section 15, that it did not know and could not reasonably be held to have known the fact of the claimant's disability. That is a defence to the claim under section 15 which is set out in section 15(2) and the defence to the claim under section 20 sets out at paragraph 20 of schedule 2 of the Equality Act 2010.

Findings of fact

10.5 The Tribunal refers to its findings of facts above and makes the following uncontroversial findings of background fact.

10.5.1 The claimant commenced employment with the respondent on 3 September 2015.

10.5.2 Prior to that, the claimant's application for the job had indicated, without providing further details, that he regarded himself as a person with a disability.

10.5.3 The claimant completed a disability questionnaire which was reviewed by the respondent's occupational health department, which on 24 July 2015, confirmed that the claimant was fit for the post.

10.5.4 Over the ensuing months, the claimant had a large number of one to one meetings with his line manager at none of which did he mention any problems with his workstation or raise the fact that he had a back problem.

10.5.5 Between 7 and 13 December the claimant had a seven-day absence, self-certified, because of back pain.

10.5.6 On 15 December 2015, the claimant had a return to work meeting with his line manager. He made no complaint about his workstation or any suggestion that it may have contributed too his episode of illness.

10.5.7 Following that return to work meeting, the claimant's line manager made a referral to occupational health (see pages 90 to 91). The relevant referral form contained the following comment:

"*Arnold has recently returned from an absence due to pain in his lower back (self certification attached)*". *The pain was described as a muscle spasm as a result of an old injury to L2/L3. He is currently under hospital supervision, with a review due in January. Previously he had had steroid injections, but on last absence used prescribed pain relief.*

I am concerned that Arnold's working environment may be contributing to his discomfort, and that he may require a visual display assessment from a nurse. I would also welcome some advice on how we can support Arnold on a day to day basis"

10.5.8 Before that assessment could be carried out, the claimant had another absence from work between 12 January and 22 February 2016. That absence was unconnected to his back problems.

10.5.9 On 27 January 2016, a decision was taken to extend the claimant's probation period and on 22 February there was a further referral to occupational health (see pages 105 to 107).

10.5.10 As far as is relevant the referral read as follows:

*"Arnold's job application identified that he had a disability and during interview and in subsequent supervision session and in a return to work interview this has been discussed. I am unclear as a manager whether the disability relates to a previous back injury or Arnold's nervous disability (*a reference to the reason for the claimant's latest period of ill health absence*), and I wonder whether we should be addressing his condition under the disability policy. Could this please be confirmed? Arnold has had two incidents of sickness. The first related to the old injury to his back (lower disc L2/L3) for which he has previously has steroid injections for and is due a medical review (January 2016) and the second is the current absence which is stated on his sick note as nervous disability. I am aware from having spoken to Arnold that the nervous disability has been triggered by recent personal circumstances. I wish to know the best way to support Arnold through his return to work in relation to his mental well being and also what we can do as an employer to ensure his equipment is appropriate to support his back injury"*.

10.5.11 On 23 February 2016, there was a return to work meeting.

10.5.12 On 1 March 2016, there was an occupational health report (see pages 113 to 114).

10.5.13 As far as is relevant that reads:

"Mr Ntiege has a longstanding problem with his lower back that leads to unpredictable and intermittent painful muscle spasms. When a spasm is present it usually takes two days to resolve. The spasms do resolve with simple painkilling medication but when they are severe they are likely to prevent Mr Ntiege from working. Mr Ntiege remains under follow up for his back at the Northern General Hospital where he has had a course of three spinal injections which provided temporary relief to his symptoms".

10.5.14 Under the heading "Outlook" the report predicted that Mr Ntiege was likely to continue to experience muscle spasms in the future and under the response to the specific questions, Dr Oliver recommended that the claimant have a workstation assessment to ensure that it was optimally set up for a person with back problems. The report overall concluded that Mr

Ntiege was fit to resume normal duties and hours although as a matter of fact he had a phased return to work.

10.5.15 The claimant's line manager Ms White formally requested a work place assessment which although she chased the matter up later never in fact happened.

10.5.16 At Ms White's request, Dr Oliver provided a medical opinion on 8 March stating that he did not consider that the claimant was disabled as a result of his back conditions, because it did not have substantial adverse effect on his ability to carry out day to day activities, and that no adjustments were needed. Dr Oliver gave no explanation for his reasoning.

10.5.17 On 13 May, at a probation review meeting, a conclusion was reached that the claimant had not successfully completed his probation and he was put on notice that there would be a dismissal hearing to consider whether or not the claimant should continue in his employment.

10.5.18 The claimant was invited by a letter of 23 May to attend the dismissal hearing on 14 June.

10.5.19 On 13 June, the claimant submitted a sick note for six weeks being signed off with lower back pain and sciatica.

10.5.20 In response to that, the dismissal hearing was postponed and the claimant was referred to occupational health.

10.5.21 Over the ensuing weeks the claimant was invited to, but failed to attend, three occupational health assessments in order to determine whether he was fit enough to attend the dismissal meeting.

10.5.22 The claimant did attend a fourth occupational health assessment on 25 July 2016, by which time he had raised a grievance. In the course of that assessment, carried out by Loraine Barber, occupational health advisor, Mr Ntiege confirmed that he was fit to attend the dismissal hearing scheduled for 4 August 2016. The claimant failed to attend that dismissal hearing having emailed his employers at 11.45 on that morning in the following terms:

"Hi all. I wish to let you guys know that I am not fit enough to attend today's meeting due to poor health/mental health and other irreconcilable reasons. Apologies for any inconvenience".

10.5.23 The dismissal meeting was chaired by Ms Carrie Abbott, Public Health Service Director. She took the decision to proceed with the claimant's dismissal hearing and at the end of the meeting decided to dismiss the claimant.

10.6 <u>The Tribunal's conclusions on the section 15 claim</u>

10.6.1 The section 15 claim fails for a number of reasons. In the first place, the Tribunal is not satisfied of the claimant's inability to

attend the dismissal. Mr Ntiege's disability, in our finding, arose only from his physical impairment. At least in part, Mr Ntiege relied upon mental health problems as causing his inability to attend the meeting. The email to the respondent on the morning of the hearing is, to put it mildly, ambiguous. It refers to "poor health/mental health" and "other irreconcilable reasons". No medical evidence accompanied it. The claimant contended, in his closing submissions, that it was his back problems that caused him to be unfit to attend. At the relevant time, Mr Ntiege was certified as unfit for work because of back pain. However, only 10 days before the meeting, an occupational health specialist had assessed the claimant as fit to attend. Mr Ntiege's submission about that assessment was that it was internally contradictory since at one and the same time Ms Barber was saying that Mr Ntiege was not fit to work but that he was fit to attend the meeting. With due respect to Mr Ntiege, the Tribunal sees no contradiction. It is an entirely different matter to say that an employee is fit to attend work for the whole of his working hours on a regular basis, than to say that he is fit to attend a meeting scheduled to last a matter of hours at the most. Furthermore, Ms Barber recorded that Mr Ntiege had agreed that he was fit to attend the meeting and Mr Ntiege does not assert that Ms Barber was making that up. Finally, there is the striking coincidence of the fact that the claimant, having been back at work from 23 January 2016, went off sick with back pain on the very morning of the first proposed dismissal meeting. Furthermore, that absence was for six weeks, a surprising length of time given the information available from Dr Oliver about the effects of the claimant's impairment. Furthermore, throughout that period, the claimant was able to attend his placement, another desk based job. That, coupled with the claimant's unexplained reluctance to attend the occupational health meetings detailed in our findings of fact (see paragraph 47) points, in the Tribunal's mind, to a conclusion that the claimant's absence from work was tactical rather than necessary and at the very least that his inability to attend on 4 August for a meeting was much more to do with the "irreconcilable reasons" mentioning in his email than anything to do with his back. The Tribunal therefore concludes, on balance, that the section 15 claim must fail because the claimant's failure to attend the meeting did not arise out of his disability and therefore the decision to proceed with the meeting in his absence was not a matter arising out of his disability.

10.6.2 Even if we were wrong about that, the Tribunal is entirely satisfied that the decision to proceed with the meeting, in the circumstances detailed in our findings of fact between paragraphs 44 and 49, was entirely justified. We accept that the respondent had a legitimate business aim of ensuring a workforce that was up to capacity and that staff were capable

of completing their contractual duties and fulfilling the respondent's need to provide the importance service for which they were employed. We accept that that entailed a legitimate need on the part of the respondent to ensure that staff who were not performing properly had their employment reviewed and, if appropriate, ended so that those staff could be replaced by other staff capable of doing the job to the required standard. In the circumstances, a meeting to discuss possible termination of an employee's contract, where that employee had failed probation, was entirely appropriate in the pursuit of that legitimate aim.

10.6.3 Was it proportionate on the part of the respondent to proceed with that meeting in the absence of Mr Ntiege? Here the Tribunal considers the history of the matter outlined in our findings of fact. We take the view that Ms Abbott was entitled to be sceptical of the claimant's claim that he was unable to attend the meeting by reason of ill health. The respondent had taken considerable trouble to ensure that the claimant was assessed as to his fitness to attend a meeting and Ms Abbott was entitled to bear in mind the fact that the meeting on 25 July was the fourth such meeting that has been arranged for the claimant, by which time the disciplinary meeting had been pending for some five weeks. The result of the 25 July appointment had been an independent occupational health assessment that the claimant was fit to attend the meeting. As against that, Ms Abbott had only a vague email which referred to poor health, mental health and other irreconcilable reasons. In our view, Ms Abbott was entitled to reach the conclusion in all of the circumstances that enough was enough.

10.6.4 The evidence shows that the meeting was no formality but that Ms Abbott considered all of the relevant documentation and discussed the reasons for Mr Ntiege's failed probation with his line managers. In the circumstances, the Tribunal takes the view that the respondent was entitled to proceed with the meeting. Mr Ntiege has argued that had he been present at the meeting he might have been able to persuade the respondent to retain him in his employment and that is of course a possibility. It is impossible now to guess what Ms Abbott might have done had Mr Ntiege been there although the odds must have been against Mr Ntiege evoking in her a change of heart, given the fact that Mr Ntiege's failed probation followed a carefully documented and detailed process of one to one meetings and assessment by his line manager. For the above reasons the section 15 claim fails.

<u>The claim of failure to make a reasonable adjustment</u>

10.6.5 The claimant relies upon a physical aspect of his work namely his chair and his desk as placing him at a disadvantage.

However the claimant however has been remarkably vague in explaining what it was about his chair and his desk that placed him at a disadvantage. During the course of the hearing, and for the first time, he asserted that the fact that he is a tall man and that his desk was too low exacerbated his back problems. He accepted however that his chair was fully adjustable although he denied that he had been given instructions as to how to adjust it. He was unable to explain what aspect of his chair created any particular difficulties for him in relation to his back problem. The Tribunal takes the view that the burden rests upon Mr Ntiege to show that the physical feature that he takes issues with placed him at a disadvantage. That, of course, does not extend to a requirement to adduce medical evidence but some cogent evidence outlining the nature of the disadvantage is a necessity. What is remarkable in this case is the complete absence of any such evidence other than Mr Ntiege's response set out above and elicited in cross-examination. The Tribunal accepts of course that Mr Ntiege has ongoing back problems. However, to what extent, if at all, they were contributed to by the workstation remains entirely opaque. Mr Ntiege's witness statement is devoid of any mention of a contribution to his back problem caused by his workstation. Mr Ntiege had a large number of one to one meetings with his manager and a return to work meeting. In none of those meetings did Mr Ntiege complain about his workstation or assert that he needed a different desk and/or chair. The evidence shows that his colleagues spoke to him from time to time and asked him if everything was fine and he always responded that it was. Mr Ntiege explained that by saying that he tried as best he could to soldier on but, whatever the reason, it appears that Mr Ntiege never did complain even to his workmates about his workstation. During the assessment meeting which produced the occupational health report of 1 March, Dr Oliver specifically asked Mr Ntiege about his back problems in relation to his ability to work. Mr Ntiege made no mention of any difficulties with his workstation in that meeting although Dr Oliver suggested checking that the workstation was optimally set up for the claimant. The claimant did raise a grievance during the period following his going off ill on 14 June but before his dismissal. For the first time he did raise the need for there to be reasonable adjustments. However, he did not specify what aspects of his work needed adjusting. He certainly did not mention his workstation. Furthermore, we know that the Claimant's placement, which he was carrying out for some of the time he was working for the respondent, was a largely sedentary desk job and the claimant has made no complaints about any difficulties he experienced with his back during that placement nor has the claimant said that he had a specially adapted desk or chair for that placement.

10.6.6 The Tribunal's view is that there is no evidence upon which we could conclude that there was any contribution to the claimant's back problems made by the claimant's workstation at the respondent's premises. It follows that there was no duty upon the respondent to make any adjustment. For that reason, the Tribunal dismisses the complaint under section 21 of the Equality Act.

Employment Judge Rostant

Date: 18 August 2017