



## EMPLOYMENT TRIBUNALS

Claimant

Ms K Bancroft

Respondent

Fermac Traffic Services Ltd

v

### (CLOSED) PRELIMINARY HEARING

Heard at: Norwich

On: 23 May 2018

Before: Employment Judge Postle

**Appearances:**

**For the Claimant:** Mr Williams, Counsel.

**For the Respondent:** Mr Rozycki, Counsel.

## JUDGMENT

1. The claimant's claim brought under the Equality Act 2010 for the protected characteristic of sex is dismissed upon withdrawal.

## CASE MANAGEMENT SUMMARY

1. The respondent's application for a strike out on the grounds that the claims have no reasonable prospect of success does not succeed. The respondent's alternative application for a deposit order on the grounds that the claims have little reasonable prospect of success does not succeed.

### The full merits hearing

2. After all matters had been debated between the parties it was agreed that a realistic time estimate to include remedy if the claimant succeeds is **2 days**. With the parties' agreement the claims have been listed at **Norwich Employment Tribunal** sitting at **Norwich Magistrates Court, Bishopgate, NORWICH, Norfolk, NR3 1UP** commencing on **Monday 22 October 2018** and continuing on **Tuesday 23 October 2018**.

### The claims

3. By one claim form filed on 3 November 2017 with the appropriate ACAS certificate the claimant originally made claims for constructive unfair dismissal, direct sex discrimination and breach of contract. The claim for direct sex discrimination has been withdrawn.
4. The claims give rise to the breach of the implied term of trust and confidence, the specific breaches are set out clearly at paragraphs 35 a-f of the ET1.
5. The last straw is clearly set out at paragraphs 36 and 37 of the ET1.

## ORDERS

### Made pursuant to the Employment Tribunal Rules 2013

#### 1. Statement of remedy/schedule of loss

- 1.1 The claimant shall prepare a schedule of loss setting out the losses she claims flows from the dismissal, giving details of all income earned in the intervening period whether part time, locum, agency or temporary and at the same time provide details of her mitigation. The claimant has been in receipt of state benefits and details of these are to be provided. The schedule of loss is to be sent to the respondent on or before **6 June 2018**.

#### 2. Disclosure of documents

- 2.1 The respondent shall specifically disclose all relevant documents in relation to Mr P Howell and Mr S Ball and any other similar related incident which the claimant was involved in on 26 June 2017, in the last 24 months and send to the claimant by no later than **13 June 2018**.
- 2.2 The parties are ordered to give mutual disclosure of documents relevant to the issues identified above by list on or before **13 June 2018**.
- 2.3 Requests for copy documents so as to arrive on or before **20 June 2018**. This includes, from the claimant, documents relevant to all aspects of any remedy sought.
- 2.4 Documents relevant to remedy include evidence of all attempts to find alternative employment: for example a job centre record, all adverts applied to, all correspondence in writing or by e-mail with agencies or prospective employers, evidence of all attempts to set up in self-employment, all pay slips from work secured since the dismissal, the terms and conditions of any new employment.

2.5 This order is made on the standard civil procedure rules basis which requires the parties to disclose all documents relevant to the issues which are in their possession, custody or control, whether they assist the party who produces them, the other party or appear neutral.

2.6 The parties shall comply with the date for disclosure given above, but if despite their best attempts, further documents come to light (or are created) after that date, then those documents shall be disclosed as soon as practicable in accordance with the duty of continuing disclosure.

3. **Bundle of documents**

3.1 It is ordered that the respondent has primary responsibility for the creation of the single joint bundle of documents required for the hearing.

3.2 To this end, the claimant is ordered to notify the respondent on or before **6 July 2018** of the documents to be included in the bundle at their request. These must be documents to which they intend to refer, either by evidence in chief or by cross-examining the respondent's witnesses, during the course of the hearing.

3.3 The respondent is ordered to provide to the claimant a full, indexed, page numbered bundle to arrive on or before **13 July 2018**.

3.4 The respondent is ordered to bring sufficient copies (at least three) to the tribunal for use at the hearing, by 9.30am on the morning of the hearing.

4. **Witness statements**

4.1 It is ordered that evidence in chief in this case will be through typed witness statements. Such witness statements shall be in chronological order with numbered paragraphs. If a document is to be referred to from the bundle the page number inserted in the relevant paragraph. Such witness statements are to confine themselves to the issues to be determined in this case and shall not consist of hypothesis, supposition or theory. Such witness statements are to be exchanged on **Friday 21 September 2018**.

**CONSEQUENCES OF NON-COMPLIANCE**

1. Failure to comply with an order for disclosure may result on summary conviction in a fine of up to £1,000 being imposed upon a person in default under s.7(4) of the Employment Tribunals Act 1996.
2. The tribunal may also make a further order (an "unless order") providing that unless it is complied with, the claim or, as the case may be, the response shall be struck out on the date of non-compliance without further consideration of the proceedings or the need to give notice or hold a preliminary hearing or a hearing.

3. An order may be varied or revoked upon application by a person affected by the order or by a judge on his/her own initiative.

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**Employment Judge Postle**

Sent to the parties on:

14 June 2018

For the Tribunal:

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