EMPLOYMENT TRIBUNALS

Claimant: Ms Rita Jeevan

Respondent: Her Majesty's Revenue & Customs

HELD AT: Liverpool **ON:** 10-13 July 2017
20 and 21 December 2017
5 and 6 March 2018
(in Chambers)

BEFORE: Employment Judge Robinson
Mr M Gelling
Mr R Cunningham

REPRESENTATION:

Claimant: In person
Respondent: Mr Holloway of Counsel

JUDGMENT

The judgment of the Tribunal is that the claimant's claims for unfair dismissal, direct discrimination, indirect discrimination, discrimination arising from disability, a breach of the duty to make reasonable adjustments and harassment all fail and are dismissed.

REASONS

1. The issues before the Tribunal relate to those matters set out in the judgment. Ms Jevan was not legally represented throughout the hearing and it was occasionally difficult to understand under which umbrella of the Equality Act 2010 her claims were being made. We therefore took the decision to look at all the potential issues before us even though the claims for direct and indirect discrimination were not only not well pleaded but we heard precious little evidence relating to those specific claims. That is not a criticism of Ms Jevan. We would not expect her necessarily to understand the nuances of the various claims under the Equality Act 2010.

2. There was no doubt, however, that the claimant did have claims before us of unfair dismissal, discrimination arising from disability, a breach of the duty to make reasonable adjustments and harassment.

3. There were also out of time issues to deal with and, as can be seen from the judgment below, we decided that some of the claims before us have been made out of time. Those incidents were not part of a series of continuous events leading to the dismissal.

4. There was also, at one point, a suggestion that the claimant might have been constructively unfairly dismissed. Ultimately we recognised there was no such claim. The claimant had been dismissed by the decision maker for the reason of capability.

The Facts

5. The respondent accepts that the claimant is disabled within the meaning of section 6 of the Equality Act 2010 because of anxiety and depression. They do not accept, however, that the claimant is disabled because of her hypothyroidism or because of her neck and back problems or her migraines or problems associated with varicose veins in her leg.

6. However, for the purposes of these claims we have taken a view that the claimant was disabled for all the reasons she suggests except migraines. Having those conditions means that the claimant cannot walk great distances although the actual distance she suggests was not indicated to us. She does get tired because of the thyroid problem and her anxiety and depression, and potentially her varicose veins also cause her difficulties in relation to walking or standing.

7. The claimant was given a disability passport by the respondent and as will be seen below the respondent put in place reasonable adjustments to deal with all the issues that the claimant's conditions raised.

8. We did not have any evidence at all as to how the claimant's migraines affected her day-to-day activities nor how often they occurred. We heard some evidence that the claimant was absent because of migraines during, in particular, the latter part of her employment for two half days.

9. The claimant also suggested that she had "women's problems". We interpreted this as issues with menstruation. We did not find that to be a disability nor was it pleaded as such by the claimant. Consequently the respondent has not had a chance to consider that issue.

10. The claimant also raised the issue as to why she was not considered for ill health retirement. That was not something which was pleaded and is contrary to the essence of her claim, namely that she believes she should not have been dismissed at all. She accuses the respondent of dismissing her because she suffered ill health and had a disability. That is her main allegation and does not gel with an application to leave the respondents by way of ill health retirement. We did not, therefore, consider that as an issue within our jurisdiction.

11. The only discrimination claims the claimant raised related to the protected characteristic of disability. That is important because the claimant suggested that she required a female manager towards the latter stages of her employment. There is no claim relating to the fact that the claimant is a woman or that she relies on the protected characteristic of her sex. There is no sex discrimination claim before us.

12. Initially, it seemed that the claimant's only grievance with the respondent was that she was not given a blue badge in order to park close to Imperial Court where she worked at the end of her employment. The claimant misunderstood the issue of blue badges and thought that the respondent was able to issue her with one. It is only during the course of the hearing that she realised that it was the Local Authority which issued blue badges, not the respondent.

13. The claimant questioned whether she had hit the triggers with regard to the respondent's managing attendance policy. We find that the claimant reached all the consideration points set out in the respondent's policy and her attendance was a concern to the respondent when she worked at Imperial Court. That concern manifested itself almost from the moment she was transferred from the Benefits and Credits Compliance Operations in Bootle in September 2014. That move was a reasonable adjustment because the respondent agreed to the claimant moving to an office nearer to her home.

14. The respondent has a three stage attendance management process when absences become a concern. We found that the respondent went through a proper process at each stage and indeed, as will be seen from the facts set out below, Mr Meadows, the last manager the claimant had before she was dismissed, did not invoke stages of the process when he could have done, in order to give the claimant every chance to keep her job. That was a reasonable adjustment by the claimant's manager.

15. Between 2012 and 2014 the claimant was absent 79 days. Between October 2014 and February 2015 the claimant was absent 76 days. It was appropriate for the respondent to issue the claimant with a final written warning on 17 August 2015 with a six month review period because the claimant had breached the respondent's attendance policy. The review period was from 17 August 2015 to 17 February 2016. We set out below the chronology relating to those absences and the way in which Mr Meadows managed the claimant towards the end of 2015.

16. The respondent was extremely lenient to the claimant during the latter part of 2014 and the beginning of 2015. The claimant was absent for 76 days for anxiety and depression between 22 October 2014 until 10 February 2015. During that period the claimant failed to maintain regular telephone contact and she provided a fitness note from her GP which expired on 31 December 2014. The claimant informed the respondent that she would be travelling to Sri Lanka to see her family on 8 November 2014 and intended to return to the UK in January 2015. The claimant requested three months' absence for the trip to Sri Lanka, which was refused.

17. Instead the claimant simply took the time off, did not keep the respondent informed as to where she was, and her pay was suspended from 1 January 2015 for not providing a fit note and not keeping in touch. Ultimately when the claimant returned to the UK she obtained a backdated fit note and the respondent backdated

her pay to 1 January. There was no detrimental or unfavourable treatment of her. The claimant returned to work on 29 January 2015. It was a phased return to work which was a reasonable adjustment. The claimant was referred to Occupational Health and a fit for work plan was arranged. It was then that Mr Meadows took over as her line manager. In 2014, before she went to Sri Lanka the claimant's manager was Darren Davies. She accuses Mr Davies of harassing and bullying her. However, Mr Davies stopped being the claimant's manager in early 2015 and on 9 February 2015 Mr Meadows took over as her manager.

18. The claimant accuses Mr Davies of moving her desk so that she was close to him in order that he could keep an eye on her. She suggests that that was bullying. It was not. Mr Davies moved a number of other employees, for the same reason as the claimant, because they had been, initially, situated at training desks and were now being brought into the main part of the office.

19. During the latter part of October 2014 the claimant was absent sick and did not keep in touch with Mr Davies as she should have done. The claimant insisted that she needed to speak to a female manager and so Mr Davies arranged for Carla Smith to deal with the claimant's absence at that time. On 30 October 2014 Ms Smith asked the claimant on the telephone why she had not kept in contact since she commenced absence on 22 October 2014. The claimant accused Mr Davies to Carla Smith of “being nasty”. When asked what Mr Davies had been complaining about with regard to the claimant, the claimant said that she was not sure. The claimant was absent, she said, because of stress caused by work at that point. She also confirmed that there were outside stressors, namely a burglary that she had suffered. The claimant confirmed to Ms Smith that as she had not been given an extended period of leave to go to Sri Lanka her employers had caused her stress.

20. Marie Murphy, a senior manager, was very concerned, at the end of 2014, that the claimant was not keeping in touch. For example, on 4 December 2014 she emailed the claimant to say that the claimant had not been in touch since 6 November 2014. The claimant's response was terse. She simply said on 9 December 2014 the following:

> “Hi, I’m replying for your mail [sic]. You can contact me through this mail. Thanks. Rita Jeevan”

21. The claimant was actually in Sri Lanka and in the middle of unauthorised leave when she sent that email.

22. On 26 December 2014 the claimant told Marie Murphy that she was abroad, she would return at the end of January and she was still not well. She requested a move back to the Triad in Bootle and said, “sorry, don’t like to work in your office”.

23. Marie Murphy made it clear in an email to the claimant on 5 January 2015 that her fit for work note had expired on 31 December 2014 and that she was absent without authorisation.

24. On 14 January 2015 Mr Davies made a note that the claimant was failing to keep in touch during sickness absence and he confirmed that he was considering what to do. He considered not taking any action but ruled that out because the

claimant had been absent without a fit note by that stage for two weeks. There had been repeated attempts to make contact with no reply. The respondent was tolerant of this absence though concerned. A formal letter relating to this issue was sent to the claimant's UK address on 14 January 2015.

25. The female managers that were now in place dealing with the claimant's absence, namely Carla Smith and Marie Murphy, still could not get a reply from the claimant. The claimant was refusing to answer the questions that were put to her, such as: did she have a current fit note, what is the reason for absence and when was she expecting to return to work. The claimant was dismissive of those requests in her email responses.

26. The claimant produced a fit note on 21 January 2015 backdated for a period from 1 January 2015 to 13 February 2015. The fit note said that she was not fit for work due to depression and anxiety and issues of bullying at work. The evidence shows, in terms of emails and telephone notes, that the claimant was not bullied. The respondent simply wanted to know when she was returning to work. The claimant considered such requests as bullying.

27. On 22 January 2015 Mr Davies made a note that he had taken into account the reasons for and length of the absence, and he felt that the action taken in withholding the claimant's pay was appropriate in order to "protect the business".

28. On 29 January 2015 when the claimant had returned to the UK but not to work she had a meeting with Marie Murphy. The claimant had her trade union representative with her (Lyn Cunningham). At that meeting the claimant produced a fit note. The claimant was reminded of her duty to keep in touch and that she had failed to do so. It was at this meeting that the claimant now suggested that she was "scared" of Marie Murphy, one of the female managers who had been put in place at her request.

29. At that meeting reasonable adjustments were discussed including a phased return to work, a support plan breaking tasks down into simple steps and introducing other elements of the job gradually over a four week period. The claimant said she did not want to work on floor 2 and/or floor 3 of the building she was working in at that time, so the respondent agreed that they would put her on floor 4. Within a short period of time the claimant complained she did not like working on floor 4 because Mr Davies worked on that floor too, even though she was being managed by Mr Meadows. She said that Mr Meadows and Mr Davies were friends, suggesting, in some way, that that impacted on the way Mr Meadows might manage her. It did not.

30. The respondent gave the claimant copies of the relevant policies with regard to continuous absence, ill health retirement and unauthorised absence guidance, and they also made it clear to the claimant that there was the availability of workplace wellness for support. From the respondent's point of view it was a very positive meeting, although at the end the claimant said she still wanted to move out of Imperial Court.

31. Marie Murphy explored the possibility of moving the claimant to Bootle and on 30 January 2015 made a note that she ruled this out on the basis that the claimant had stated she did not like Imperial Court but could not substantiate any reason for

that other than she "does not feel comfortable there". Ms Murphy accepted that the claimant said that she felt bullied by her manager. She was given a copy of the grievance guidance for her consideration if she wanted to put in a grievance. The grievance against Mr Davies was not lodged until much later.

32. Ms Murphy referred the claimant to Occupational Health for updated medical advice.

33. Ms Murphy considered the verbal complaint made against Mr Davies and felt that they were unsubstantiated, having had an informal discussion with Mr Davies. Despite that finding, she facilitated a change in manager for the claimant as a reasonable adjustment on the basis that that "no way implies the manager is at fault".

34. On 2 February 2015 the claimant had a telephone consultation with OH Assist who confirmed that she was absent with anxiety and depression, she had a history of psychological illness and she "perceives" she is being bullied by a manager. The recommendation from Occupational Health was that an individual stress risk assessment should be undertaken and consideration should be made for an alternative work location. The disability advice from the Occupational Health adviser was that the condition of anxiety was likely to be considered a disability. The respondent accepted that.

35. When the claimant was due to come back to work on 4 February she emailed to say that she had flu and could not return. It was Ms Murphy who telephoned the claimant after receiving an email saying that she would not be coming into work on 4 February. It was during that telephone call that it was agreed that there would not be a location move but that Ms Murphy was able to offer a move within the business area to floor 4. The claimant agreed to that and agreed that she would return to work on 10 February 2015. Phased hours were agreed between the claimant and Ms Murphy.

36. A stress reduction plan was put in place and Ms Murphy met the claimant at reception. She introduced the claimant to Mr Meadows, her new manager, and he set out the tasks that had been planned for the claimant over the four days. Mr Meadows line managed 11 people, two of whom had disabilities. Over the next few weeks Mr Meadows monitored the claimant's work and he made it clear to the claimant that if she had any concerns she should speak to him immediately.

37. There are a number of notes of discussion that Mr Meadows produced over the course of the next few weeks. For example, on 18 March 2015 he had a word with the claimant in order to review her phased return to work which had been completed, the stress reduction plan and the reasonable adjustment passport. Mr Meadows was diligent in his management of the claimant.

38. Mr Meadows informed the claimant that her work was of a quality which was acceptable and that she should now move forward and work on the telephones. At that meeting Mr Meadows explained the reasonable adjustment passport to the claimant and confirmed that any counselling sessions that the claimant went to could be included in the passport. Mr Meadows told the claimant the level of attendance expected of her. The level of absence, however, had to be addressed by Mr

Meadows and the claimant was informed that she was to have a meeting on Wednesday 25 March at 11.00am because, over the last 12 months, she had been absent on four occasions totalling 96 days. That letter and the meeting that took place was in accordance with the respondent's policy. At the meeting the claimant was again supported by Ms Cunningham.

39. Mr Meadows advised the claimant that he would assess all the facts after the meeting and decide whether to move to a formal process. The review period would be for three months. Mr Meadows said that if she requested emergency leave he could only accommodate her request if it was sustainable by the business.

40. Ms Cunningham, on behalf of the claimant, said the claimant was happy with the support she was receiving.

41. The claimant was informed on 31 March 2015 that her attendance was unsatisfactory, that being absent reduced her efficiency but also caused disruption and uncertainty in the team that he was running. Mr Meadows however was positive in that he said that he aimed to help the claimant to reach and maintain an acceptable level of attendance, and he confirmed that he was available to help in any way. He also pointed out to the claimant that if there were any adjustments that could be made he would consider them and implement any reasonable adjustments to enhance her attendance. The claimant saw that letter and signed it.

42. In short, Mr Meadows, knowing the claimant was disabled, still considered her attendance at an unsatisfactory level. Because the condition was stress he put in place a reasonable adjustment passport and a stress reduction plan. In terms of the work that the claimant had to do in the office, she was given simple tasks.

43. Consequently the claimant had got to stage one of the absence policy and her review period was from 31 March to 1 July 2015. The claimant received a workstation health assessment. The claimant was provided with a chair and a footrest as set out in the workstation assessment report.

44. On 18 May 2015 the claimant told Mr Meadows that she was much more settled in work.

45. On 19 June 2015 there was a positive meeting between the claimant and Mr Meadows where the claimant confirmed that her stress levels had reduced with the support she had been receiving and Mr Meadows informed the claimant that he was pleased with her progress.

46. The claimant was then absent on 25 and 26 June 2015 with a swollen eye; on 2 July 2015 because of tiredness, and on 14 July 2015 because of anxiety.

47. On 20 July 2015 Mr Meadows agreed the reasonable adjustment passport with the claimant, which included time off for counselling sessions as appropriate, allowing the claimant, when answering calls, to arrange call back in order to take stock of the case and plan phone calls and questioning. The claimant signed off that passport.

48. However, Mr Meadows had to make a decision about the claimant's future because the claimant had had three periods of absence amounting to eight days. That was sufficient to move her on to stage two of the absence policy. The claimant was invited to a meeting on 11 August 2015 to discuss that issue.

49. The meeting took place without the claimant's trade union representation but at that point the claimant was not in the union and she decided to continue without a companion.

50. After hearing what the claimant had said Mr Meadows felt that she was in breach of the policy and therefore moved her on to stage two and gave her a final written warning dated 17 August 2015. Mr Meadows' decision to move the claimant through the absence policy was because of the continued unsatisfactory periods of absence. The claimant was placed on a final review period from 17 August 2015 to 17 February 2016. It was explained to her that that would give her the opportunity to demonstrate that she can reach and maintain the required standard of attendance and the claimant signed up to that letter on 19 August 2015.

51. On 10 September 2015 the claimant asked for time off on Friday 11 September and Monday 14 September 2015. Because of business requirements, Mr Meadows refused the time off on the Friday but allowed the claimant to have time off on the Monday. The claimant took the time off, in any event, on the Friday. Mr Meadows asked the claimant to phone him on the Monday if she was fit to return to work on 15 September 2015. The absence was for a sore back. The claimant did not consult her GP about that absence. It was not a disability related absence.

52. On 15 September 2015 the claimant took the afternoon off because of a migraine and also the morning of 16 September 2015 off for migraine. Mr Meadows had an immediate meeting with the claimant.

53. The claimant asked for her 11 September 2015 absence to be logged as annual leave. Mr Meadows made it clear to the claimant that she could not change a sick day to a leave day as he was concerned that that masked the level of illness for any employee, and that was inappropriate.

54. Mr Meadows did not move the claimant onto stage three although he could have done. He felt that the claimant's absences were not a significant worsening of the claimant's sickness record and since he had taken over in the February, her record of attendance had been better. However, on 24 September 2015 the claimant asked for leave on 21-24 December 2015. Mr Meadows advised the claimant that he had not arranged any leave for anybody at that point and told her, in an email of 25 September 2015, not to take any holiday "until leave is agreed".

55. On 7 October 2015 the claimant then asked for a car parking space. Mr Meadows told her that he could not give her one, as none were available. Mr Meadows told the claimant that, as she was not covered by the Equality Act for back pain or varicose veins, she was unlikely to get one. The policy of the respondent was that only blue badge holders would get one. The claimant was not a blue badge holder.

56. Mr Meadows felt the claimant was able to park closer to her place of work than she had when she worked at the Triad in Bootle and he was unsure for the reasons behind the request. His view was that she merely wanted one. He had no medical evidence to suggest that she needed one. However, he consulted the respondent's criteria for offering a parking space.

57. Mr Meadows went through the process as per the policy by checking whether a space was available. One was not. Spaces were allocated to employees on the production of a valid blue badge or an appropriate Occupational Health report or recommendation.

58. On 20 November 2015 Mr Meadows asked the claimant whether there was anything else that she needed, in particular, any additional support, and she said "no". The claimant was again absent for half a day on 10 December 2015 and not fit to attend on 11 December. It was at that point that Mr Meadows, for the first time, was told that she had a potential thyroid problem which needed tests. The claimant had emailed Mr Meadows telling him she would be absent. He replied that that was not appropriate and that she had to telephone when she was absent not simply email. The claimant had a further absence on 14 December 2015 and came into work on 15 December 2015 only at 11.00am. The reason for the absence was back pain and thyroid issues. A back to work interview was undertaken.

59. Mr Meadows felt that an Occupational Health referral was necessary and he set that up. Mr Meadows confirmed to the claimant that he was happy with her standard of work. However he was so concerned about whether the claimant would request leave over the Christmas period that he emailed his colleagues to check that the claimant was in work on 21 December and that she also worked her cover for 30 December 2015. He also made it plain that the claimant should not be granted leave unless it was for an exceptional reason.

60. The claimant's standard of work was now slipping. For example on 30 November 2015 there were four checks on her work from the previous week and she passed two and failed two.

61. Mr Meadows was concerned that the absences of the claimant were inhibiting her ability to do the job. He was concerned that a pattern was developing with regard to the claimant's leave. He confirmed that no leave should be granted unless there were exceptional circumstances because of the pressure on the team over the Christmas period.

62. On 6 January 2016 Mr Meadows had a meeting with the claimant. He took the opportunity to check the claimant's flexi balance for the period. Her balance was minus 24.25 with the limit being 22.12.

63. However, because the claimant was, proactively, getting her balance below the level of concern, he decided not to take any action against her.

64. Mr Meadows reminded the claimant that if she was struggling with her balance on flexitime she should have a word with him and they could discuss the ways forward. The claimant signed that discussion note.

65. At that same meeting the claimant mentioned the car parking space again and Mr Meadows made it plain that because of the Occupational Health review which would happen within the next few days the question as to whether she was able to have a car parking space could be reviewed once that report was prepared. He also told the claimant that he would continue to meet with her every month, and again the claimant signed off that meeting.

66. On 8 January 2016 the claimant requested seven weeks leave in order that she could travel to Sri Lanka to attend a wedding, visit family and also get treatment for headaches. Mr Meadows explained to the claimant that the most he could consider was four weeks, taking into account the needs of the department which were being stretched by the claimant's absences. The claimant later accused Mr Meadows of bullying her over this. He did not bully her; he simply set out for her the needs of the department. Initially Mr Meadows said that he could only offer her three weeks but that he would push for four weeks to help her. The claimant's only reply to that was that she may be able to reduce it from seven weeks to five weeks. The meeting ended with Mr Meadows telling the claimant that he would consider four weeks but he could not go higher than that. The claimant signed off that meeting note.

67. Whilst the claimant was absent Mr Meadows discussed with Marie Murphy and Mr Darlington, the claimant's trade union representative, the provision of a parking space for the claimant.

68. Before the claimant went away, on 14 January 2016, the reasonable adjustment passport was updated and all matters were agreed between the claimant and Mr Meadows. She signed off that passport which allowed her time off for counselling sessions as appropriate for her stress and anxiety, consideration for time off for appointments for her thyroid problem dependent on the GP appointment and advice from the Occupational Health. It was also agreed that the passport would be reviewed upon advice, that a specialist chair was in place, that a footrest was in place, wrist rest in place, headset would be supplied and reduced lighting was put in place. He also confirmed that some disability related sick absence "will be discounted in accordance with the sick guidance". All those matters the claimant agreed to.

69. On 1 March 2016 Mr Meadows confirmed that, following her 6 month review, she was now entering 12 months monitoring under the absence procedure. Mr Meadows also reminded the claimant that an Occupational Health assessment was to take place on the following Thursday - 3 March 2016. The claimant signed off the notes on that meeting.

70. At that point in time, what exercised the claimant and her trade union representative was nothing more than whether she would get a car parking space.

71. Unfortunately the Occupational Health report that was provided did not meet with the claimant's approval. She was upset because she felt the report did not reflect what she had said during her assessment. She complained on the Occupational Health website. What the claimant was really angry about was that the advisor did not think that her conditions amounted to a disability.

72. The report suggested that the claimant's stress and anxiety were well managed without the need for medication; that the claimant had been given details of workplace wellness processes and that she was going to attend a gym to help her psychological health. The report went on to say, with regard to the claimant's back pain, that the last physiotherapy treatment she had had was in 2014 and that the claimant did not need regular medication and was able to walk, stand and sit unaided and walk without restrictions. That put paid to the claimant's opportunity of getting a car parking space. The Occupational Health advisor also considered the thyroid issues for the claimant, noted she was taking medication, that the blood tests that she had had recently were showing that the condition was stable and well managed, and finally that the claimant was fit for her full duties with no restrictions.

73. Despite the content of the report and the claimant's vehement denouncement of it, because it suggested she was not covered by the Equality Act with regard to her disability, Mr Meadows had always treated the claimant as if she was disabled and given her the appropriate reasonable adjustments and accepted that some of her absences were disability related. He had also given her time off for counselling sessions and doctor's appointments. That report did not adversely effect the way her manager treated the claimant. He was still very understanding of her issues. He had, however, to juggle the needs of the claimant with the needs of his team and he needed her in work.

74. Mr Meadows took the view that without a blue badge and without the Occupational Health recommendation he felt he could not grant a request for a parking space.

75. The claimant was clearly incensed by that report. On 9 March 2016 she sent a curt email to Mr Meadows simply saying:

> "Hi John, I like to move from this office to another office please."

76. Because of that Mr Meadows met with the claimant on 10 March 2016. They discussed the question as to why she wanted to complain about the Occupational Health report and the claimant had three issues with the report. Firstly, that the nurse had written things which the claimant had not said. Secondly, that the nurse said that the claimant's condition could not be classed as a disability. Thirdly, the claimant felt that there was some content in the report which was personal and which she had told the Occupational Health nurse not to mention.

77. Mr Meadows informed the claimant that the complaint could be made via himself but he asked her to put it in writing.

78. The claimant reiterated that she wanted to move office as she did not "like Imperial Court". She wanted to move to Graham House. She also wanted to be managed by a female manager. She was very demanding.

79. Mr Meadows explained to the claimant that it was not for him to arrange office moves, although he did say that it was unlikely that she would be able to move because her previous requests had been rejected.

80. On 16 March 2017 Mr Meadows received from the claimant's trade union representative an email saying that he must disregard the Occupational Health report until the mistakes had been corrected. Mr Meadows informed the trade union representative that he could not disregard the report and make another referral but he was prepared to pass on the written complaint to the Occupational Health organisation. He asked for a written complaint from the claimant.

81. Mr Meadows never received a written complaint from the claimant or her trade union representative until after the claimant had been dismissed. This was despite a reminder to Mr Darlington, the trade union representative, on 22 March 2016.

82. On 23 March 2016 an incident occurred at work between the claimant and Pamela Parker. Pamela Parker did not usually work at the office of the claimant. She was someone who had come in to train the staff from her Blackpool base. The email that the claimant sent was timed at 11:44 on 23 March 2016. In capital letters the claimant wrote this:

> "HI JOHN, I WANT TO LEAVE NOW, STRESSED."

83. That is all that was written.

84. Mr Meadows replied within a few minutes saying that if she wished to go then she could and that he would "discuss it with her tomorrow".

85. A report was received from Pamela Parker, who was a compliance officer, saying the following, and it is worth quoting in full:

> "Earlier today I was assisting Rita with a case. Rita went through the risks she could clear but Rita still had not cleared all the risks on the PCC screen. Rita wanted to know which UA note to use. I advised her that was would be the end result [sic] but first she needed to make her decision on whether to pay or to open the case and that if she missed steps then mistakes could be made. Rita wasn't happy with this and said she would ask someone else. I advised I was only trying to help her as at the early stage we need to identify if to pay or open the case. Rita said I didn't understand her and preferred me not to help. I've still asked her twice since today but Rita has stated she does not need help."

86. On 24 March 2016 the claimant had emailed Mr Meadows stating she was unable to come into work due to stress. He replied asking her to call him. The claimant did not ring that day and then the Easter break took place.

87. On 29 March 2016 the claimant emailed Mr Meadows saying:

> "I'm unable to come to work this week due to stress, and sorry I'm not in a state of mind to speak with you."

88. Mr Meadows emailed the claimant expressing concern and offering alternative contacts if she preferred. The claimant replied saying that she had no problem speaking to him but, if she did ,she would become stressed.

89. Mr Meadows' notes of 29 March discussion with the claimant are full. Mr Meadows told the claimant that he was aware of the incident with Pamela Parker as he had spoken to herr and that he was satisfied that she acted correctly and with the correct manner. The claimant did not agree. The claimant went on to say it was not just this incident but she had been stressed for a long time.

90. The claimant then broadened the allegation by saying that she did not like to be spoken to in the way that some of the team had spoken to her and that she would not be returning to that office and was requesting an immediate move to Bootle. Mr Meadows asked her to elaborate on how the member of the team had spoken to her. The claimant declined to say because it caused her too much stress. Mr Meadows explained to the claimant that he could not routinely move members of staff, whoever they were, to different parts of the business. It was at this point that the claimant informed Mr Meadows that he had discriminated against her, and when asked to explain she said because she did not get a car parking space.

91. Mr Meadows explained that he needed a fit note from the claimant if she was absent for the rest of the week. He also warned her that he had to review her sickness absence record and that he may well refer the matter to a decision maker. The claimant told Mr Meadows that she knew the risk and "she had been told by her trade union representative not to go off sick as she was at stage two of formal procedures". Mr Meadows told the claimant that she should speak to her trade union representative again.

92. On 4 April 2016 Mr Meadows wrote to the claimant saying that he had passed the matter on to Mr Deegan, a decision maker, and that she may lose her employment.

93. On 5 April 2016 the claimant obtained a medical fitness for work statement which signed her off from work for one month from 5 April 2016 because of stress at work. However, by 6 April 2016 the claimant emailed Mr Meadows saying that she had posted that sick note the day before and she was willing to go to work at any other office. The claimant was self certified for absence from 24 March until 31 March 2016.

94. On 14 April 2016 the claimant emailed Mr Meadows to say that she was claiming disability discrimination and a member of staff was guilty of bullying, aggressive rudeness and harassment and that there had been a failure to address her concerns. She went on to say that she had experienced bullying from three different staff at Imperial Court since she had started work there.

95. Mr Meadows' recommendation to Mr Deegan was that the employment should be ended.

96. There was a peripheral issue which Mr Meadows had to deal with which was that the claimant now complained about the way in which her work had been checked by Mr Meadows. Mr Meadows had previously failed some of her work. Mr Meadows' view was that if the work failed against standard checks that all employees had to pass then it failed and there was nothing he could do about it. He would do the same for any worker in the same situation as the claimant.

97. Mr Meadows also reconsidered the issue of the parking space and noted that the claimant did not have a blue badge, nor did she have a recommendation from Occupational Health that she should have a parking space. More than that he felt that the claimant did not have a need for a car parking space.

98. Ultimately the view of Mr Meadows was that he had proactively managed the claimant and that her attendance level had improved because of that. His personal view, however, was that once the claimant did not get her own way on an issue her attendance dropped and she started making complaints that she was being bullied.

99. The claimant was invited by Mr Deegan to a meeting on 4 May 2016. The usual letter was sent saying that she had the opportunity of coming to the meeting with a representative. It was made clear to her that it was all about sick absence levels. The claimant asked for a female decision maker which was refused. She also made it clear that if there was a decision maker it must not be Marie Murphy. She had fallen out with her.

100. Mr Deegan had a bundle of documents with information going back some years from Occupational Health. He noted that the claimant had a history of sickness absences not only at Imperial Court but also at the Bootle office. He considered which absences could be discounted. He reviewed the claimant's passport. He then held the meeting on 4 May 2016.

101. The claimant's complaint to the decision maker was that she was not allowed to take annual leave when she was sick, nor was she provided with a car parking space. The claimant also complained that she had received quality "fails" on her work from a line manager only because she had requested a move to Bootle.

102. Those issues mirrored the issues that she originally set out in her first ET1.

103. Mr Deegan made it plain to the claimant that masking sickness absence by taking holiday leave was not a situation which the respondent could accept. The claimant also insisted that the meeting with Mr Deegan should not be in Imperial Court and therefore at her request it was moved to Graham House.

104. The claimant made it plain to Mr Deegan that she would never go back to Imperial Court because car parking was not available.

105. The claimant then resurrected complaints about Mr Darren Davies from 2015. Mr Deegan took note of the fact that the first Occupational Health report from 2014 did confirm that she was disabled for anxiety and depression.

106. Mr Darlington confirmed that the claimant did not want Mr Deegan to deal with the issue of Darren Davies' bullying because that would be dealt with separately from the capability hearing.

107. The claimant had not attempted to find another job in Bootle on the respondent's intranet.

108. The claimant said she had issues with pain in her neck and shoulder and back pain which Mr Meadows had refused to give her time off for.

109. Mr Deegan concluded that Mr Meadows had given the claimant a significant degree of support during 2015. Although the claimant was now complaining about both Mr Davies and Mr Meadows she had never raised a grievance with regard to either manager. In particular Mr Deegan noted that Mr Meadows had consistently monitored the claimant's attendance record and that it was appropriate, in the circumstances, for Mr Meadows to escalate it to stage three and for a decision maker to decide whether the claimant's employment should continue.

110. Mr Deegan concluded that there was no hostility or aggression towards the claimant by the managers. It was not unreasonable for Mr Meadows to continue managing the claimant. When the claimant wanted a female manager she was given a female “keep in touch” manager.

111. Mr Deegan accepted that the claimant was on lower rate DLA (“Disability Living Allowance”) but that that did not mean under the policy that she should receive, automatically, a car parking space. Although the claimant disagreed with the Occupational Health report it did not recommend a car parking space. Mr Deegan recognised that the claimant did not accept the Occupational Health report but she had not complained in writing about it.

112. Mr Deegan also noted that the department does not permit the use of annual leave to cover sick absences. He also noted that the claimant was making an unacceptable demand on the department by refusing to return to work unless she was moved to another part of the business. If the claimant wanted to move she could have taken the initiative but it was not appropriate for the department, in the circumstances, to move the claimant to a different part of the business where she would be doing different work.

113. Mr Deegan’s conclusion with regard to the claimant's absences was that the claimant blamed her managers or Occupational Health if she did not get her own way.

114. Mr Deegan decided that he could not discount all the claimant's absences but some had been discounted, in any event, and that Mr Meadows had been lenient in not escalating the claimant through stages of the absence policy sooner.

115. On 9 May 2016 Mr Deegan wrote to the claimant dismissing her, and with that letter he enclosed his rationale for doing so and gave her the right to appeal which the claimant did.

116. Mrs Lesley Welford dealt with the appeal, which suggested that the claimant's grievance had been ignored; that she contested her Occupational Health report which was not dealt with or acknowledged; that there was a failure to give her reasonable adjustments to support her, namely a car parking space and emergency leave; that the decision to dismiss was not supported by information; that Mr Meadows was a friend of Mr Davies who also had bullied her; and that there had been a refusal to move the claimant to another office but that other staff had been moved. She gave no details of such staff.

117. Mrs Welford dealt with all those issues. The claimant was asked what reasonable adjustments should have been put in place and her answer was she

should have been given emergency leave and should have been granted a car parking space. Again the claimant reiterated that she was not prepared to work at Imperial Court.

118. The appeal took place on 28 October 2016.

119. Unfortunately because of personal reasons Mrs Welford was not able to get a report back to the claimant until 13 January 2017.

120. The appeal officer did contact the claimant to explain the reasons for the delay.

121. With the decision letter came a rationale as to why the appeal was refused.

122. In short Mrs Welford decided that all procedures had been followed correctly although there had been an excessive delay in dealing with the appeal, but that the decisions to go through the stages by Mr Meadows were reasonable in all the circumstances. The claimant's manager at Bootle had been male and there had been no problems. There were a number of adjustments that had been put in place for the claimant and they had taken away any disadvantage and supported the claimant.

123. The conclusion of Mrs Welford was that the claimant was unhappy about the way she had been treated because she resented being proactively managed by Mr Meadows. Again Mrs Welford noted that the claimant had not complained in writing to Occupational Health or the respondent about the details of the 3 March 2016 report.

124. The appeal officer came to the conclusion that the level of absences could not be sustained and that the tolerance of the respondent had been stretched to the limit. Pressure was placed by the claimant's absences on the rest of the team which was relatively small. Also the claimant's unwillingness to return to Imperial Court meant that her absence levels were not likely to abate.

125. With regard to the absences of the claimant generally, when she was absent the claimant was poor at keeping in touch and that had to be taken into account. Furthermore, Mrs Welford thought that the claimant had a tendency to blame others.

126. Mrs Welford then compared the absence levels that the claimant had at Imperial Court with Bootle and they were similar.

127. Finally, Mrs Welford felt that the claimant was defiant and that there was no acknowledgement by her that she had contributed to her sickness absence record.

128. Mrs Welford took into account all the medical evidence before her, but in looking at the overall picture she decided that the claimant's future attendance could not be guaranteed in view of the historical absences.

The Law

Burden of Proof

129. Section 136 of the Equality Act 2010 provides that if there are facts from which the tribunal could decide in the absence of any other explanation that the respondent contravened the provisions concerned the tribunal must hold that the contravention occurred unless the respondent show that they did not contravene the provision, in which case the claimant will lose her discrimination claims.

130. The first stage, therefore, in that **Igen v Wong** test requires the claimant to prove facts from which the Tribunal could, apart from this section, conclude in the absence of an adequate explanation that the respondent has committed or is to be treated as having committed the unlawful act of discrimination against the claimant. The Tribunal is required to make an assumption in the first stage, the purpose of which is to shift the burden of proof at the second stage so that unless the respondent provides an adequate explanation the complaint will succeed.

131. The second stage will only come into effect if the claimant has proved those facts, requires the respondent to prove that he did not commit or is not to be treated as having committed the unlawful act if the act is not to be upheld. If the second stage is reached and the respondent's explanation is inadequate it will not simply be legitimate but also necessary for the Tribunal to conclude that the claim should be upheld.

132. We applied that burden of proof to all the discrimination claims of Ms Jeevan.

133. In unfair dismissal claims the burden of proof is upon the respondent to show that they have dismissed for one of the potentially fair reasons set out in section 98(1) and section 98(2) of the Employment Rights Act 1996. If the respondent overcomes that burden then the burden is neutral as between the parties when it comes to deciding whether the dismissal is fair or not.

134. In determining whether the dismissal is fair or unfair the Tribunal must have regard to the reason shown by the employer and consider whether in all the circumstances, including the size and administrative resources of the employer's undertaking, the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee. That issue shall be determined in accordance with equity and the substantial merits of the case.

135. We must not substitute our views for the views of the dismissing officer. We must consider whether the dismissal is within the band of reasonable responses, recognising that that band is extremely wide.

136. Where ill health and capability are the reasons for the dismissal the decision to dismiss must be balanced and informed. Where an employee is suffering from an underlying medical condition that has caused a long-term absence or does not allow the employee to return to work the procedures used by the employer will be paramount with regard to the question of fairness. If a full and fair procedure is not followed then the dismissal is likely to be unfair.

137. We must however consider the nature, length and effect of the illness or illnesses, whether the illness has actually been caused by the employer and consider other issues like the employee's length of service, the effect on other employees of the claimant's absence, the availability of temporary cover, the size of

the employer, the nature of the employment and all the issues surrounding the absence.

Discrimination

138. Turning now to discrimination issues, we considered direct discrimination under the following principles: the claimant has to establish the detrimental action relied upon, for example dismissal or detriment. We then have to find if we are to find in favour of the claimant that the respondent has treated the claimant less favourably than the respondent treated or would treat others. We must consider an actual or hypothetical comparator. In such a comparison cases there must be no material difference between the circumstances relating to each case. If the Tribunal finds that the less favourable treatment is because of the protected characteristic then the respondent will be guilty of direct discrimination.

139. With regard to discrimination arising from disability, it is for the claimant to establish the detrimental action relied upon, again such as dismissal. We then go on to decide whether the treatment by the respondent of the claimant was because of something arising in consequence of her disability. If that is the case then the respondent has to show that the treatment was a proportionate means of achieving a legitimate aim.

140. With regard to indirect discrimination, the claimant must establish the detrimental action relied upon and that the respondent applied a provision, criterion or practice ("PCP") to persons with whom the claimant does not share the relevant protected characteristic, and the PCP puts or would put persons with whom the claimant shares the characteristic at a particular disadvantage when compared with persons with whom the claimant does not share it.

141. Thereafter the PCP puts or would put the claimant at that disadvantage and the respondent cannot show the PCP to be a proportionate means of achieving a legitimate aim.

Failure to make reasonable adjustments

142. With regard to section 20 of the Equality Act 2010 and the failure to make reasonable adjustments, the question is: did the respondent discriminate against the claimant in not making reasonable adjustments, was there a failure to comply with one of three requirements, namely where the respondent applied a PCP that puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with a non disabled person. The respondent is required to take such steps as it is reasonable to have to take to avoid the disadvantage.

143. Secondly, where a physical feature of premises occupied by the respondent puts an interested disabled person at a substantial disadvantage in relation to a relevant matter in comparison with a non disabled person, the respondent is required to take such steps as it is reasonable to have to take to avoid the disadvantage.

144. Thirdly, where an interested disabled person would but for the provision of an auxiliary aid be put at a substantial disadvantage in relation to a relevant matter in

comparison with a non disabled person, the respondent is required to take such steps as it is reasonable to take to provide the auxiliary aid.

145. The respondent is not subject to the duty to make reasonable adjustments if the respondent does not know and could not reasonably be expected to know that the claimant has a disability and is likely to be placed at the disadvantage referred to.

Harassment

146. With regard to the claim for harassment, the law requires an employee not to be harassed by an employer. If someone for whom the respondent is responsible engages in unwanted conduct related to a relevant protected characteristic and that conduct has the purpose or effect of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment then the claimant will succeed. In deciding whether the conduct has the effects referred to we must take into account the claimant's perception, all other circumstances of the case and whether it is reasonable for the conduct to have that effect.

147. When we considered comparisons to be made, there must be no material difference between the circumstances relating to each case.

Time Limits

148. Finally we had to consider the relevant time limits. Proceedings should be issued before the end of the period of three months starting with the date of the act to which the complaint relates or such other period as the Employment Tribunal thinks just and equitable (section 123 Equality Act 2010).

Conclusions

149. Applying that law to the facts of the case, and for ease of presentation further facts are set out below, we came to the following conclusions.

150. With regard to the direct and indirect claims made by the claimant, we were neither given a comparator nor were we given a provision, criterion or practice (PCP) by the claimant. In any event we found that none of the treatment of the claimant was because of her disability. The claimant gave us no names of a comparator but we created a hypothetical comparator and created the relevant PCP.

151. In this case we created a person who does not share the claimant’s protected characteristic but who is not in materially different circumstances from the claimant as required by section 23(1) Equality Act 2010. We found, however, that such a hypothetical comparator would have been treated in no different way from the claimant.

152. With regard to indirect discrimination we accepted that the claimant’s detrimental action was dismissal. The PCP was the requirement for her to be in work and not in breach of the absence policy. That policy did not put the claimant at a particular disadvantage because, compared to someone going through the same process of reviewing attendance, the claimant was given an inordinate amount of leeway by Mr Meadows before he recommended to the decision maker dismissal. In

any event the claimant was just plain stubborn. She made it clear to Mr Deegan that, whatever the situation, she would not return to work at Imperial Court.

153. Furthermore, the requirements of the workplace required the claimant to be in attendance and by not being in attendance the claimant put tremendous strain on a her team. With regard to indirect discrimination, we noted that the respondent was a very large employer, with many resources, but the team in which the claimant worked was small and under pressure with regard to fielding phone calls from the public.

154. In those circumstances, and with the claimant's record of absence, the position for the respondent was unmanageable, especially as the claimant was refusing to come back to work at all at Imperial Court. Therefore the claims for direct and indirect discrimination both fail. The respondents have satisfied us that the PCP and the way it has been implemented with regard to this claimant has been a proportionate means of achieving a legitimate aim, namely the best possible attendance from its employees, whether disabled or not.

155. For similar reasons the claim for discrimination arising from disability also fails. We found that the claimant's absences, although some of them were connected with her disabilities, were also because of other factors that had nothing to do with her disabilities.

156. For example, her going to Sri Lanka and being on unauthorised leave, and also being absent in March 2016 because she had had an altercation with Ms Parker. Ultimately, when Mr Deegan was considering dismissal, the claimant had a fit note in place which said that she was fit to return to work and her absence therefore had nothing to do with her disabilities and everything to do with her refusal to return to her legitimate place of work.

157. Even if we are wrong, the respondent's treatment of the claimant was a proportionate means of achieving a legitimate aim (see paragraph 154).

158. When it came to reasonable adjustments, all the reasonable adjustments were put in place that the claimant requested and Mr Meadows put in place reasonable adjustments even though, at certain times, he did not think that the claimant was disabled, for example because of her thyroid issue or because of her varicose veins, etc.

159. In other words the workplace and the requirement for her to be in work did not put the claimant at a disadvantage because the various reasonable adjustments were there for her.

160. The only adjustments which were not put in place were the provision of a car parking space and the transfer back to the Bootle office. The claimant also wanted all disability related absences to be disregarded and she also wanted her sickness absences to be converted into annual leave. She also wanted a female manager to be provided to her, although that was never pleaded in her ET1.

161. We deal with each of those adjustments in turn. Firstly, with regard to the car parking space, the claimant had worked for some time at Imperial Court without a

parking space. She did not raise the issue of a parking space until October 2015. No report ever suggested that a parking space was a reasonable adjustment, and indeed the last Occupational Health report suggested that the claimant was able to walk without any restriction and the letter from her GP did not contain a recommendation for a parking space. In any event there was no parking space available. She was not a blue badge holder so she did not meet the requirements of the policy of the respondent. We concluded that the claimant wanted a parking space for her convenience and not because she needed it.

162. With regard to the transfer back to the Bootle office, it was the claimant, originally, who wanted to move from there to Imperial Court to be nearer her home. The type of business carried out at Imperial Court was different from that at Bootle. Although the claimant suggests that there were other people who had transferred to Bootle, we were not given any details at all by the claimant as to who they were and in what circumstances they were transferred.

163. The claimant did not get her own way with regard to the way she wanted to work at Imperial Court and for that reason demanded a move. She placed a gun to the head of her managers by saying that she would not come back to work unless she was moved. The claimant made no effort to find a suitable job at Bootle.

164. Once the claimant does not get what she wants, she turns against her managers. An example is where she was given a female manager, Ms Murphy, in order to deal with her absences. As soon as Ms Murphy started criticising the claimant and not giving her exactly what she wanted, the claimant wanted Ms Murphy out of her management line up. She even demanded a female manager to deal with her capability hearing and then added “except Marie Murphy”.

165. The real reason the claimant demanded to leave Imperial Court was the tiff she had with Ms Parker. The claimant was upset about the argument she had had because Ms Parker attempted to explain to the claimant that she was doing something wrong. The claimant could not stomach that criticism. That is why she went off with stress and that is why she refused to return to Imperial Court. To move the claimant back to Bootle, given the history of the claimant’s employment may have constituted an adjustment but it was not a reasonable adjustment. To accede to such a demand would have put the management, generally, in an impossible position with other employees, especially as Bootle dealt with a different type of work. Finally, the history of this case indicates that such a move would not have addressed the claimant’s disability issues.

166. Turning now to whether the claimant’s disability related absences were disregarded, we noted that the respondent did disregard some of her absences. Mr Meadows allowed the claimant a great deal of leeway when it came to absences and did not move her on to the stage three process when he could have done. It is difficult to know exactly which of the absences were and were not disability related. If the claimant wanted, as she did, for sickness absence to be treated as annual leave the true sickness absence of the claimant would have been masked and it would have been difficult, then, for the respondent to identify which absences they could disregard for disability related reasons.

167. The provision of a female manager was not necessary in order to take away any disadvantage relating to the claimant's disability. She did not want it included in her disability passport and, until the claimant perceived that Mr Meadows had crossed her, she was content with the way he managed her.

168. In short, the respondent took reasonable steps with regard to every request for adjustments made by the claimant as set out above.

169. Turning now to harassment, the claims against Mr Davies are out of time and it is not just and equitable to extend time. This claim was lodged on 27 October 2016 and the events with regard to Mr Davies, if they occurred as Ms Jeevan suggests, took place in 2014.

170. We did not find that Mr Davies bullied the claimant, he simply managed her in the same way as Mr Meadows managed her later. There was no conspiracy between Mr Davies and Mr Meadows. They may have known each other, but we had no serious evidence to say that they put their heads together to get rid of the claimant.

171. The claimant was moved from the floors that she did not want to work on, namely floors 2 and 3, and moved to floor 4. The fact that Mr Davies happened to be working on floor 4 was because he was moved upstairs as well.

172. As with other managers, because Mr Davies did not provide the claimant with exactly what she needed, she turned on him and accused him of bullying and harassing her.

173. It would not be just and equitable to extend time with regard to that claim against Mr Davies. Too much time has elapsed. It is noteworthy that the claimant raised no grievance against Mr Davies in late 2014 when she became disenchanted by his management of her.

174. Similarly, with regard to Mr Meadows, he did not harass her. One only has to read the communications, the notes of meetings and emails that Mr Meadows wrote and one can see that he was respectful towards the claimant. Indeed Mr Meadows bent over backwards to accommodate the claimant and her needs. When it came to Ms Parker's argument with the claimant, it was the claimant who could not stomach being told that she had got things wrong. We accepted that Mr Meadows had spoken to Ms Parker and had concluded that the claimant's version of events was not correct.

175. Finally, we turned to the unfair dismissal and we considered the reason for the dismissal.

176. The claimant was not dismissed for disability. A fair process was gone through. The claimant was given every opportunity to put her side of the story and she had with her a trade union official. We did consider whether the respondent had dismissed for capability or conduct. It was important to establish for what reason they dismissed the claimant.

177. However, ultimately the claimant was incapable of working at the place where she was supposed to work and she had a long history of unsatisfactory attendance. The claimant left work for a non disability reason, namely the argument she had with Pamela Parker. Neither Mr Deegan nor the Appeal's officer could be satisfied that the claimant's attendance would improve whatever they did for her.

178. All reasonable adjustments had been put in place by the respondent. There were no further adjustments that could have been put in place to enable the claimant to stay in work.

179. If the claimant is suggesting that not dealing with her grievance was part of the unfair process, and we are not certain she is, then it is important to note that she was notified of the referral to the decision maker before she put in her grievance. As soon as the claimant recognised that she was going to be taken through a capability hearing, and the chances were she would be dismissed, she raised the grievance on 14 April 2016. The written complaint with regard to the Occupational Health report only came in after her dismissal and the details of that complaint were not known to Mr Deegan when he dismissed.

180. Mr Darlington, on behalf of the claimant, also suggested that he would deal with the bullying allegation with regard to Mr Davies, about which much of the grievance was aimed, outside and after the capability process had been completed. That was never brought back to the respondent's managers for them to deal with. In any event by then the claimant was no longer an employee of the respondent.

181. In all the circumstances of this case, therefore, we find that the claimant was fairly dismissed and there was no connection between the dismissal and her disability which was not properly dealt with by the respondent.

Employment Judge Robinson

13-04-18

RESERVED JUDGMENT AND REASONS
SENT TO THE PARTIES ON

18 April 2018

FOR THE TRIBUNAL OFFICE