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**EMPLOYMENT TRIBUNALS (SCOTLAND)**

**Case No: S/4100702/17**

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**Held in Glasgow on 4, 5, 6, 7, 8, 11, 12, 13, 14 and 15 December 2017;  
22, 23, 24, 25 and 26 January 2018;  
5, 6, 7, 8, 9, 16 and 26 February 2018;  
21 May 2018 (Final Hearing); 22 May 2018 (Members' Meeting);  
29 May and 4 June 2018 (Further Written Representations);  
25 June & 12 July 2018 (Members' Meetings);  
27 July and 5 August 2018 (Further Written Representations); and  
1 October 2018 (Final Deliberation)**

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<b>Employment Judge:</b>	<b>Ian McPherson</b>
<b>Members:</b>	<b>Ms. Laura Crooks</b>
	<b>Mr. William Muir</b>

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**Dr Renee Elizabeth Bleau**

**Claimant  
In Person**

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**The University Court of the  
University of Glasgow**

**Respondents  
Represented by:  
Mr. L. G. Cunningham -  
Advocate**

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**JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

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The **unanimous** Judgment of the Employment Tribunal is that: -

**E.T. Z4 (WR)**

- (1) Having heard the claimant in person, and counsel for the respondents, on the last day of the Final Hearing, on 21 May 2018, in respect of the claimant's opposed application, made at that Hearing, for leave of the Tribunal to be allowed to amend the ET1 claim form, by amending paragraph 12 of the revised ET1 paper apart of 4 July 2017, to add a complaint that a 5 page PDF document of her PDR record was submitted for the purposes of the Employment Tribunal that substantially mis-represented in material respects her extant PDR online record at the University, the Tribunal **refused** that application, for the reasons then given orally by the Judge, on behalf of the Tribunal, on the basis that the application was made far, far too late.
- (2) Further, having considered the evidence led at the Final Hearing, the closing submissions made to the Tribunal on behalf of both parties, and their subsequent further written representations, and after private deliberation by the Tribunal, the Tribunal has now decided as follows: -
- (a) None of the alleged disclosures relied upon by the claimant as part of her claim against the respondents are qualifying protected disclosures made by the claimant to the respondents in terms of **Section 43B of the Employment Rights Act 1996**.
- (b) The claimant was not subjected to any detriment by the respondents, as alleged or at all, and, in particular, she was not subjected to any detriment on the grounds that she had made a qualifying protected disclosure. Accordingly, her complaint against the respondents, under **Section 47B of the Employment Rights Act 1996**, of detriment for having made such a disclosure fails, and that complaint is dismissed by the Tribunal as not well-founded.
- (c) The claimant resigned from the employment of the respondents, and she was not dismissed by them, either expressly, or constructively under **Section 95(1)(c) of the Employment Rights Act 1996**.

Accordingly, her complaint of unfair constructive dismissal by the respondents, contrary to **Sections 94 and 98 of the Employment Rights Act 1996**, fails, and that complaint too is dismissed by the Tribunal as not well-founded.

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(d) Further, the claimant was not dismissed by the respondents expressly or constructively, on the grounds that she had made a qualifying protected disclosure. Accordingly, her complaint against the respondents, under **Section 103A of the Employment Rights Act 1996**, of automatically unfair dismissal for having made such a disclosure fails, and that complaint too is dismissed by the Tribunal as not well-founded.

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(e) The claimant's complaint that she was the subject of unlawful discrimination by the respondents on the grounds of her part-time worker status, in respect of a funding request to attend an overseas conference, is time-barred, and thus outwith the jurisdiction of the Tribunal to determine, it not being just and equitable in all the circumstances of the case to allow that complaint, under **Regulation 5 of the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000**, to proceed, although late.

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(f) In all these circumstances, the claimant's complaints against the respondents are dismissed in their entirety. The claimant is not entitled to any compensation from the respondents, as sought in her Schedule of Loss provided to the Tribunal, as alleged, or at all.

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(g) Further, even if the claimant had succeeded in her claim against the respondents, for any or all of unfair constructive dismissal, detriment for having made a protected disclosure, or automatically unfair dismissal on the grounds that she made a qualifying protected disclosure, the Tribunal would have significantly reduced any compensation otherwise payable by the respondents to the claimant

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on account of (a) her conduct and contribution, pre- and post-termination, and (b) her failure to mitigate her losses, post-termination of her employment with the respondents.

5 (h) Similarly, even in that event, the Tribunal would not have ordered the claimant's re-engagement by the respondents, as sought by the claimant, as the Tribunal is satisfied that it would not be practical for the respondents to have re-engaged her in any capacity when it is clear, from the evidence led before this Tribunal, that the respondents  
10 have no trust and confidence in the claimant being their employee again, based on her conduct post-termination of her employment with the respondents.

(3). The claimant has paid Tribunal fees of **£250** in connection with this claim. In  
15 **R (on the application of UNISON) v Lord Chancellor [2017] UKSC 51**, the Supreme Court decided that it was unlawful for Her Majesty's Courts and Tribunals Service (HMCTS) to charge fees of this nature. HMCTS has undertaken to repay such fees. In these circumstances, we shall draw to the attention of HMCTS that this is a case in which fees have been paid and they  
20 are therefore to be refunded to the claimant. The details of the repayment scheme are a matter for HMCTS, and the claimant should make application to HMCTS for her refund.

(4) In light of our Judgment in favour of the respondents, and in respect of the  
25 respondents' reserved position about seeking expenses against the claimant, the Tribunal **orders** that the respondents' solicitor shall, **within 28 days of issue of the Reasons to follow for this Judgment**, intimate to the Tribunal, with copy sent to the claimant at the same time, whether or not the respondents seek an award of expenses against the claimant, and, if so, on  
30 what basis, and, in that event, the Judge will thereafter issue appropriate case management orders.

## REASONS

1. Following the Final Hearing in this case, when we reserved judgment to be issued later in writing, we have decided, following upon our private deliberations, to issue this Judgment only, at this stage.
  
2. Our full Written Reasons will follow in due course, in terms of **Rule 62 of the Employment Tribunals Rules of Procedure 2013.**

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Employment Judge: G Ian McPherson  
Date of Judgment: 08 October 2018  
Entered in register: 12 October 2018  
and copied to parties

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