



EMPLOYMENT TRIBUNALS

Claimant: Miss S Prenderville

Respondent: Fraser Heath Financial Management Limited

Heard at: Bristol **On:** 11 December 2018

Before: Employment Judge O'Rourke

Representation

Claimant: In person

Respondent: Ms G Roberts – counsel

PRELIMINARY HEARING JUDGMENT

1. The Claimant's claims of automatic unfair dismissal, under s.100 of the Employment Rights Act 1996 (ERA) and victimisation on grounds of disability are dismissed, by way of withdrawal.
2. The following claims of the Claimant will proceed to final hearing: discrimination arising from disability; harassment related to disability; wrongful dismissal; breach of contract; arrears of holiday pay and failure to provide terms and conditions of employment, subject to s.1 ERA.

REASONS

1. Following discussion with the Claimant as to the rationale for her claims of automatic unfair dismissal and victimisation, she agreed that she had no basis upon which to bring such claims and withdrew them. The issues raised in respect of each were as follows:
 - a. Automatic Unfair Dismissal. The Claimant sought to rely on s.100 ERA, as to health and safety-related dismissal, but accepted that none of the statutory reasons set out in s.100(1) applied to her.

- b. Victimisation. The Claimant was unable to adequately set out what might constitute a 'protected act' on her part. She stated that while she had raised concerns about her health with Mr Loomes (a director of the Respondent), at a meeting on 14 March 2018, she was unable to set out why such discussion could constitute a making of an allegation, whether or not express that the Respondent was in breach of the relevant element of the Equality Act 2010 (EqA). A break in the Hearing was agreed for the Claimant to consider this point, following which, on the basis that she could continue to challenge her dismissal, as a detriment under a s.15 EqA Discrimination Arising from Disability claim, she considered that there was no point in her pursuing this victimisation claim, the 'first hurdle' of which she was unlikely to get over.
2. Discrimination Arising from Disability. The Respondent did not seek either a strike out or deposit order in respect of this claim, on the basis that evidence would be required as to both the state of knowledge of the Respondent as to the Claimant's disability (depression) and whether or not any unfavourable treatment was because of something arising in consequence of that disability.
3. Harassment (s.26 EqA). Again, as evidence would be needed as to the nature of the alleged acts of unwanted conduct and whether or not they had the purpose or effect of creating an intimidating, hostile etc. environment for the Claimant, no strike out or deposit order was sought by the Respondent in respect of this claim.
4. Remaining Claims and Case Management. There is a separate record of case management summary and case management orders.

Employment Judge

Date 11 December 2018