



EMPLOYMENT TRIBUNALS

Claimant

Mr A Boukra

Respondents

Veolia ES UK Ltd

AND

Heard at: London Central

On: 9 April 2019

Before: Employment Judge Davidson (Sitting alone)

Representation

For the Claimant: Mr T Perry, of Counsel

For the Respondent: Mr D Kew, Human Resources

JUDGMENT ON REMEDY

It is the decision of the tribunal that the Claimant's claim for reinstatement fails. The issue of re-engagement and/or compensation will be considered at a further remedy hearing on 9 May 2019.

REASONS

At the start of the hearing, I asked the claimant whether he was seeking re-engagement as an alternative to reinstatement and he confirmed that he was.

Reinstatement

It is for the respondent to show why reinstatement would not be practicable if it is on notice that the claimant wishes to pursue this remedy. Unfortunately, despite the respondent being aware that the purpose of this hearing was to consider reinstatement, there was no witness evidence adduced by the respondent and no documentary evidence on the issue of reinstatement.

However, from my understanding of the claimant's workplace based on the evidence at the liability hearing, I find that reinstatement, with the claimant returning to his former workplace and work colleagues, would not be practicable. It was clear in the liability hearing that there was 'bad blood' between the claimant and some of his colleagues, including managers and the claimant was critical of them in his evidence before the tribunal and alleged that they were trying to get rid of him. Despite the claimant's view that he could keep his head down and get on with his work, if left alone, I cannot see any way in which his employment could continue trouble-free in that workplace.

I therefore find that reinstatement is not practicable.

I am minded to make an order for re-engagement because the respondent is a large employer working over many sites. I have taken into account that the claimant contributed to his dismissal by committing an act of misconduct. I am not satisfied it can properly be categorised as 'gross misconduct' and therefore that conduct is not, of itself, grounds for declining to award re-engagement.

I have been presented with no evidence to suggest that there are no suitable vacancies at another site. However, an order for re-engagement must include details of the new role and I don't have any data on which to make such an order.

A further remedy hearing will be held on 9 May 2019 to consider the issue of re-engagement and/or compensation.

Both parties are ordered to exchange witness statements and documents 7 days before the hearing, by 2 May 2019.

Employment Judge Davidson

Dated: 9 April 2019

Judgment and Reasons sent to the parties on:

17 April 2019

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For the Tribunal Office