Case Number: 3200248/2019

RM

EMPLOYMENT TRIBUNALS

Claimant: **Ms Katarzyna Jachacz**

Respondent: **Eggfree Cake Box Walthamstow Limited**

Heard at: **East London Hearing Centre**

On: **26 & 27 September 2019 and (in chambers) 23 October 2019**

Before: **Employment Judge Hallen**

Members: **Dr J Ukemenam**
Ms J Henry

Representation

Claimant: Mrs M Imkin (Consultant)

Respondent: Mr Z Malik (Trainee Solicitor)

RESERVED JUDGMENT

The unanimous judgment of the Tribunal is that:-

1. **The Claimant's dismissal constituted discrimination because of pregnancy contrary to section 18 Equality Act 2010.**

2. **The question of remedy will be heard before the Tribunal on 12 February 2020 and directions for the remedy hearing are given separately in the order attached to this judgement.**

REASONS

Background

1 Following a preliminary telephone hearing on 20 May 2019 before Employment Judge Gilbert, the parties agreed that the only claim the Claimant was pursuing was of unfavourable treatment because of pregnancy pursuant to section 18 Equality Act 2010. She was not pursuing a claim for automatic unfair dismissal contrary to section 99 of the

Employment Rights Act 1996 and Regulation 20 of the Maternity and Parental Leave Regulations 1999. The Claimant alleged that she was subject to unfavourable treatment being dismissal after she had told her employers that she was pregnant. At that preliminary telephone hearing, the Tribunal gave directions for the substantive hearing which the parties complied with. Furthermore, the parties were directed to prepare an agreed list of issues which was at page 41 of the bundle of documents. In questions 1 to 3 of the agreed list of issues, the Respondent appeared to suggest that it was not aware of the Claimant's pregnancy at the time of dismissal. However, at the substantive Tribunal hearing, the Respondent admitted that it was aware of the pregnancy on or around 19 September 2018. The Respondent asserted that the Claimant was not dismissed by reason of pregnancy but was dismissed because she failed to achieve targets during her probation period and was guilty of misconduct specifically using her mobile phone whilst working and breaching food and safety requirements by licking cream off her fingers whilst preparing cakes. The Tribunal had to determine whether dismissal of the Claimant was for the reason posited by the Respondent or whether the Claimant's dismissal was related to her pregnancy and amounted to unfavourable treatment contrary to section 18 of the Equality Act 2010. The Claimant also argued that she was treated less favourably by the Respondent because it failed to do a risk assessment in relation to her pregnancy prior to her dismissal on 12 October 2018.

2 The Tribunal had an agreed bundle of documents made up of 98 pages. It also heard evidence from the Claimant who prepared a witness statement of some 23 paragraphs. The Respondent called three live witnesses who prepared signed witness statements. The first witness was Mr. Romain Lenain who prepared a witness statement of seven paragraphs. The second witness was Ms. Christina Sidabre who produced a witness statement of nine paragraphs. The final witness was either Mrs. Ieva Wright who was the Director and joint owner of the business who produced a witness statement of 42 paragraphs. All witnesses were subject to cross-examination and questions from the Tribunal.

Facts

3 The Tribunal preferred the evidence of the Claimant who gave it via a Polish interpreter. She appeared to be clear and consistent with the facts of what had happened to her. Conversely, the Respondent's main witness, Mrs. Ieva Wright, the Director and main decision maker in the case was inconsistent and changed her evidence on numerous occasions both just prior to the hearing in her written witness statement and during oral testimony. Indeed, paragraphs 38, 39 and 42 of the witness statement were crossed out by hand prior to the commencement of these proceedings. The content of these paragraphs which the witness confirmed were true prior to deletion stated that she was not aware of the Claimant's pregnancy during the entire period of time the Claimant was at work. However, at the Tribunal hearing, this witness confirmed that she was aware that the Claimant was pregnant as of at least 19 September 2018 prior to taking any action to terminate the Claimant's employment. At paragraph 39 of the witness statement which was crossed out in hand prior to the start of the hearing, she stated "nobody has ever told me the Claimant was pregnant and the first time I found out that the Claimant was pregnant was when I was first notified of these proceedings.' This paragraph was crossed out in handwriting and she confirmed in oral testimony under oath that she was so aware of the Claimants pregnancy as of at least 19 September 2018. This was a complete contradiction of what was contained in the witness statement. This complete volte face by the Respondent's main witness on such a central issue in this case meant that the

Tribunal had difficulty believing the evidence of Mrs. Wright at all and her evidence was treated by the Tribunal with caution. Further inconsistencies with her evidence are highlighted during the facts section of this judgment.

4 The Claimant obtained employment with the Respondent in an informal manner and was interviewed for the position by Mr. Lenain who was described at page 51 which was part of the Respondent's policies as her manager. The Claimant was offered the position of "back of house' which position fundamentally involved her making egg free cakes for the Respondent behind the retail unit which sold such cakes. The Claimant was given a short induction by Mr. Lenain with minimal training offered to her. She commenced her employment on 22 August 2018 in the Walthamstow branch of the Respondent's operation. The effective date of dismissal was 12 October 2018. The cake shop is one of 27 franchisees of which the Respondent owns five franchises and manages one other. Each of the five cake shops employs 6 to 8 employees some of whom are full and some of whom are part-time staff. Some of these are 'back of house' and make the cakes and some of them are 'front of house' and sell the cakes to the general public. The Walthamstow cake shop is busy over the weekends and on Friday. The Claimant worked as part of the cake making team preparing cakes for decoration. She worked in a 5 to 6 person team. Following the Claimant's dismissal, she received written particulars of employment from the Respondent which were at pages 42 to 47 of the bundle of documents by email. The Claimant regularly worked 32 hours per week over four days. The Claimant completed the employee details which were at pages 48 and 49 of the bundle of documents as well as signing the safe systems of work form which was at pages 50 and 51 of the bundle of documents. At pages 52 and 53 of documents were the Rules of Work and at page 53 was a list of dismissible offences which warranted instant dismissal.

5 The Claimant found out that she was pregnant in early September whilst off work for illness for one week due to 'acute tonsillitis' (page 63). She was advised by her work colleagues to speak to Mr. Lenain about her pregnancy. She therefore informed him that she was pregnant on 15 September 2018 by way of text message as shown on page 65 of the bundle of documents. Mr. Lenain initially told the Claimant to speak to Mrs. Wright, the Director who she saw once or twice a week at work herself. He then said he was going to speak to Mrs. Wright himself to which the Claimant replied, "okay, you can talk to her". The Tribunal found as a matter of fact that Mr. Lenain as the Claimant's manager did speak to Mrs. Wright and she was aware of the Claimant's pregnancy on at least 19 September 2018. The Tribunal was referred to a set of documents which were messages between the Claimant and Mr. Lenain which were pages 65 and 66. At page 66, Mr. Lenain confirmed "I told her, but you can discuss documents with her." This was confirmation from Mr. Lenain that he had indeed informed Mrs. Wright of the Claimants pregnancy.

6 Within five days of Mrs. Wright discovering that the Claimant was pregnant, she organised a probation review meeting with the Claimant without prior notification and the Claimant only found out about such meeting on the day namely 24 September 2018. During the meeting, Mrs. Wright told the Claimant that she was not happy with the Claimant using her mobile phone at work, eating leftover sponge cake pieces and licking cream off her hands. The Claimant apologised to Mrs. Wright for these transgressions and said that colleagues are often working while using their phones or having leftover sponge cake with their coffee. Therefore, the Claimant was under the impression that all this was permissible. However, upon hearing Mrs. Wrights concerns that using the phone was not

permissible and eating cake pieces was also not permissible, the Claimant accepted her mistakes and apologised stating that that would not happen again. The meeting was conducted in English despite the Claimant's limited knowledge of the English language. Notes were produced to the Tribunal and were pages 54 to 55. These notes were not provided to the Claimant until the discovery process of these proceedings so she could not comment on the accuracy of them. The notes were relatively short being just over one page long. The first item raised by Mrs. Wright was the use of the phone which she said was not permitted while the Claimant was working. The second item concerned the Claimant's failure to achieve performance targets for which the Claimant also apologised and the third item related to complying with food and safety requirements and not licking cream from her fingers whilst eating waste cake products. At the end, the Claimant asked "do I have my job still?' and Mrs. Wright answered "yes. You can go back to your task. Meeting completed. I will inform about my decision after meeting notes have been reviewed."

7 The meeting lasted no more than 15 minutes. The Claimant did not mention her pregnancy during the meeting but the Tribunal accepted her evidence that she was in her 13th week of pregnancy and therefore would be visibly pregnant. At the date of the meeting on 24 September, Mrs. Wright was aware that the Claimant was pregnant as she was told this by Mr. Lenain on or around 19 September. The Claimant gave evidence which was accepted by the Tribunal that at no point during the course of this meeting did Mrs. Wright indicate to the Claimant that she would lose or might lose her employment. This appeared to the Tribunal to be a first probation review meeting which would be normal for new employees undertaking the position that the Claimant undertook in which the employer could highlight perceived issues which needed to be improved. Furthermore, although the notes of the meeting specified that Mrs. Wright would review the position, in evidence she gave to the Tribunal it was clear that she undertook no such review. Indeed, during the 18 day period between 24 September 2018 and 12 October 2018 being the date of dismissal, Mrs Wright was away on holiday for most of this period and undertook no such review. Furthermore, although there was reference to the Claimant's failure to achieve performance targets, the Tribunal found as a matter of fact that no such targets were laid down for the Claimant and the Respondent failed to produce any written evidence to confirm that the Claimant was specifically given targets at the outset of her employment. The only document produced in the bundle of documents was a page 87 that pointed towards targets. However, this appeared to be a list of products that had to be produced by the entire cake making team for Wednesdays and Fridays of each week. It was not a specific target set for the Claimant. The Tribunal did not accept the Respondents evidence that the Claimant was ever set any specific targets. Following the probation review meeting on 24 September, and after a period of 18 days during which there was no contact between Mrs. Wright and the Claimant, the Claimant received a letter of dismissal dated 12 October 2018 which was at page 56 of the bundle of documents. There was no meeting between Mrs. Wright and the Claimant prior to receipt of this letter. The letter stated that Mrs. Wright was writing to confirm her decision following the probation review meeting. It then went on to outline two areas of concern relating to the Claimant's alleged failure to follow company rules and procedures and failure to achieve performance targets. Mrs. Wright confirmed that the Claimant apologised at the meeting but then went on to say that her conduct was unsatisfactory for the following reasons: –

> "no significant improvement Failure to achieve performance targets." The letter then stated "Unfortunately, the company has not seen the immediate and

> sustained improvement that it was seeking and having given careful consideration to the above points we have reached the conclusion that you have failed to demonstrate your suitability for your role during your probation period'. It is regret that I confirm that your appointment is terminated with immediate effect. You will be paid in lieu of notice.'

8 The letter also gave the Claimants the right of appeal giving her for reasons for appeal. The Tribunal noted that there was reference to there being no significant improvement and a failure to achieve performance targets. However, as set out above, the Tribunal did not see any evidence of the Claimant being set performance targets. Furthermore, there was reference in the letter of dismissal to no significant improvement being witnessed by Mrs. Wright between 24 September and 12 October being the date of dismissal. Mrs Wright gave evidence that she was away for most of this period of time and could not have witnessed any improvement as she was not in a position to monitor performance. Therefore, the Tribunal did not accept that she was indeed monitoring the Claimant's performance during this period of time and was not in a position to judge one way or the other whether there had been any significant improvement. Given the absence of judging such improvement, the Tribunal doubted the reasons for the Claimant dismissal as being accurate and honest as set out in the letter of dismissal. Furthermore, the reasons for dismissal set out in the letter of dismissal did not fall within the list of dismissible offence is outlined in the Rules of Work which were pages 52 and 53 of the bundle of documents. The Tribunal accepted that the list of dismissible offences were examples of instant dismissible offences but it was telling to the Tribunal that performance related matters were not in that list. These were the ostensible reasons for the Claimant's dismissal.

9 The Claimant appealed against the decision to dismiss her on 15 October which email of appeal was at page 58 of the bundle of documents. The Claimant stated that the Respondent should have set out performance targets in writing which it had failed to do and also stated that Mrs. Wright did not give the impression that she was thinking of dismissing the Claimant at the meeting on 24 September. She also stated that other employees used their mobile phones at work and also ate pieces of cake that were leftover. She ended the letter of appeal by stating "let me know about your final decision as we both know that is the main reason'. The Claimant gave evidence which was accepted by the Tribunal that she meant the main reason for dismissal was pregnancy. Mrs. Wright wrote to the Claimant on 23 October 2018 inviting the Claimant to an appeal meeting and this was at page 61. The letter specified the date (27 October 2018) and location of the appeal meeting but did not specify the time for that meeting. In her witness statement, Mrs. Wright confirmed that she invited the Claimant to the appeal meeting and the Claimant failed to attend the meeting and made no attempt to contact her to rearrange the meeting. However, when it was pointed out to Mrs. Wright that at page 60, the Claimant did attempt to contact her by email to find out the time of the meeting, Mrs. Wright accepted this and confirmed that what she said in her statement was not accurate. As a consequence of the failure to set out the time for the appeal meeting, Mrs. Wright rescheduled the appeal meeting for 10 November at 10 am. This letter was at page 61A. The Claimant gave evidence which was accepted by the Tribunal that she did not receive this letter and was unaware of the rescheduled appeal meeting. This appeal meeting went ahead in the Claimant's absence and was adjudicated upon by Mrs. Wright the very same Director that took the decision to dismiss the Claimant. At the Tribunal hearing, Mrs. Wright gave evidence that she was advised not to deal with the appeal herself and that an independent Director should deal with it. It was accepted by the Respondent that

Mrs. Wright's husband was also a Director and could have dealt with the appeal. Nevertheless, the appeal resolution letter was at page 62 of the bundle and was signed off by Mrs. Wright and not Mr. Wright. Mrs. Wright attempted at the Tribunal hearing to give the Tribunal the impression that her husband dealt with the appeal along with her but the appeal resolution letter is in the first person and made no reference to Mrs. Wright's husband at all. As a consequence, the Tribunal were of the view that Mrs. Wright dealt with the appeal as well as dealing with the dismissal and acted contrary to the advice that she was given that the appeal should have been dealt with by somebody else. Mrs. Wright did not offer any explanation as to why she did not follow the advice that was given to her and dealt with the appeal herself. Unsurprisingly, Mrs. Wright dismissed the appeal in the absence of the Claimant. In the appeal resolution letter of 20 November 2018, Mrs. Wright confirmed that she had not given the impression that she would not dismiss the Claimant at the meeting on 24 September and that no other staff were responsible for using their mobile phones at work or eating cream used for cakes. Following the dismissal of the appeal in writing, the Claimant instituted these proceedings.

Law

10 Section 18 EQA provides: –

> 18 pregnancy and maternity discrimination: work cases
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> (1) This section has effect for the purposes of the application of part 5 (work) to the protected characteristic of pregnancy and maternity.
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> (2) A person (A) discriminates against a woman if, in the protected period in relation to a pregnancy of hers, A treats her unfavourably –
>
> (a) because of the pregnancy, or
>
> (3) A person (A) discriminates against a woman if A treats her unfavourably because she is on compulsory maternity leave……..
>
> (6) The protected period, in relation to a woman's pregnancy, begins when the pregnancy begins, and ends-
>
> (a) if she has the right to ordinary and additional maternity leave, at the end of the additional maternity leave period…
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> The liability enquiry for section 18 cases "unfavourable treatment because of" involves the same liability enquiry as for direct discrimination i. e. What is the ground on which the act was taken: see Indigo design build and management Ltd v Martinez UKEAT0020–14.

11 The Courts have long been aware of the difficulties that face claimants in bringing discrimination claims and the importance of drawing inferences: King v The Great Britain-China Centre (1992) ICR 516. Statutory provision is now made by section 136 EQA:-

12 136 burden of proof (1) this section applies to any proceedings relating to a contravention of this Act.

> (2) if there are facts from which the court could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned, the court must hold that the contravention occurred.

13 But subsection (2) does not apply if A shows that A did not contravene the provision. Guidance on the reversal of the burden of proof was given in Igen v Wong (2005) IRLR 258. It has repeatedly been approved thereafter: See Madarassy v Nomura International PLC (2007) ICR 867. The guidance may be summarised in two stages: (a) the Claimant must establish on the totality of the evidence, on the balance of probabilities, facts from which the Tribunal 'could conclude in the absence of an adequate explanation" that the Respondent had discriminated against her. This means that there must be a "prime facie case' of discrimination including less favourable treatment than a comparator (actual or hypothetical) with circumstances materially the same as the Claimants, and facts from which the Tribunal could infer that this less favourable treatment was because of the protected characteristic; (b) if this is established, the Respondent must prove that the less favourable treatment was in no sense whatsoever because of the protected characteristic. To establish discrimination, the discriminatory reason for the conduct need not be the sole or even the principal reason for the discrimination; it is enough that it is a contributing cause in the sense of a significant influence: See Lord Nichols in Nagarajan v London Regional Transport (1999) IRLR 572 at 576:-

> "Decisions are frequently reached for more than one reason. Discrimination maybe on racial grounds even though it is not the sole ground for the decision. A variety of phrases, with different shades of meaning, have been used to explain how the legislation applies in such cases: discrimination requires that racial grounds were a cause, the activating cause, a substantial and effective cause, a substantial reason, or an important factor. No one phrase is obviously preferable to all others, although in the application of this legislation legalistic phrases, as well as subtle distinctions, are better avoided so far as possible. If racial grounds or protected acts had a significant influence on the outcome, discrimination is made out." If the approach above approach is adopted, it is important that the Tribunal does not fall into the error of looking only for the principal reason for the treatment but properly analyses whether discrimination was to any extent an effective cause of the reason for the treatment. If the burden of proof has shifted it is for the Respondent to establish that the treatment was not in any sense whatsoever because of the protected characteristic. The Tribunal focus "must at all times be the question whether or not they can properly and fairly infer discrimination.' Laing v Manchester City Council [2006] IRLR 748 EAT at paragraph 79."

Tribunals Conclusions

14 As stated in the facts section of this judgment, the Tribunal were not satisfied with the evidence of the Respondent's main witness, Mrs. Wright being the joint owner of the business and Director. She was the officer that dismissed the Claimant and also (contrary to advice) dealt with the appeal even though her husband was a Director and could have dealt with the appeal as she admitted when giving evidence. She gave no valid explanation to the Tribunal why an independent officer did not deal with the appeal.

15 The onus is on the Claimant to establish on the balance of probabilities evidence from which the Tribunal could conclude, absent an explanation from the Respondent that

the unfavourable treatment complained of could have been because of her pregnancy. The Tribunal has concluded that the Claimant has satisfied that test. In particular, there are a number of events that suggest to the Tribunal that the reason for the treatment could have been the Claimant's pregnancy.

16 The fact that the relationship between Mrs. Wright and the Claimant deteriorated after Mrs. Wright had knowledge of the Claimant's pregnancy. There was only five day gap between Mrs. Wright finding out that the Claimant was pregnant (19 September) and the probation review meeting (24 September) which was a relatively short period of time. There was no indication that there were any concerns with the Claimant's conduct or performance before this. There was no prior notification of the probation review meeting which was sprung on the Claimant on the day that it was scheduled. It is not disputed that the Respondent had the benefit of legal advice during this process as Mrs. Wright confirmed that she was advised that the appeal officer should be different from the dismissing officer. Yet, contrary to good practice, the Respondent did not warn the Claimant of the probation review meeting before it took place. The notes of the probation review meeting were not provided to the Claimant prior to the commencement of these proceedings which was another example of good practice. The Claimant was not able to comment on the accuracy of such notes.

17 Fundamentally, the Tribunal did not believe the reasons posited by Mrs. Wright for the Claimants dismissal namely that she did not comply with the company rules relating to phone usage, health and safety and not achieving targets set. The Claimant gave evidence which was accepted by the Tribunal that at no point during the course of the probation review meeting on 24 September did Mrs. Wright indicate to the Claimant that she would lose or might lose her employment. This appeared to the Tribunal to be a first probation review meeting which would be normal for new employees undertaking the position that the Claimant undertook in which the employer could highlight perceived issues which needed to be improved. Indeed if the matter was as serious as Mrs. Wright alleged, the Claimant would not have been permitted to return to work after the meeting and then continue to work for a further 18 days without further intervention.

18 Although the notes of the meeting specified that Mrs. Wright would review the position, in evidence she gave to the Tribunal it was clear that she undertook no such review. Indeed, during the 18 day period between 24 September 2018 and 12 October 2018 being the date of dismissal, Mrs Wright was away on holiday for most of this period and undertook no review of the Claimant's performance. Furthermore, although there was reference to the Claimant's failure to achieve performance targets, the Tribunal found that no such performance targets were laid down for the Claimant and the Respondent failed to produce written evidence to confirm that the Claimant was given targets at the outset of her employment. The only document produced by the Respondent in the bundle of documents was a page 87 that indicated targets. However, this appeared to be a list of cake products that had to be produced by the entire cake making team for Wednesdays and Fridays of each week. It was not a specific target sheet for the Claimant. The Tribunal did not accept the Respondent's evidence that the Claimant was ever set any specific targets. Following the probation review meeting on 24 September, and after a period of 18 days during which there was no contact between Mrs. Wright and the Claimant, the Claimant received a letter of dismissal dated 12 October 2018 which was at page 56 of the bundle of documents. There was no further meeting between Mrs. Wright and the Claimant prior to the Claimant receiving the letter of dismissal which appeared strange to the Tribunal. It is a matter of good practice to hold a meeting with an employee to explain

the reasons for dismissal and this did not occur here. The letter of dismissal stated that Mrs. Wright was writing to confirm her decision following the probation review meeting on 24 September. It then went on to outline two areas of concern relating to the Claimant's alleged failure to follow company rules and procedures and failure to achieve performance targets. Mrs. Wright confirmed that the Claimant apologised at the meeting but then went on to say that her conduct was unsatisfactory for the following reasons: – "no significant improvement failure to achieve performance targets"

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19 The Tribunal noted that there was reference to there being no significant improvement and a failure to achieve performance targets. However, the Tribunal did not see any evidence of the Claimant being set performance targets. Furthermore, there was reference in the letter of dismissal to no significant improvement being witnessed by Mrs. Wright between 24 September and 12 October being the date of dismissal. Mrs Wright gave evidence to the Tribunal that she was away for most of this period of time and could not have witnessed any improvement as she was not in a position to monitor performance. Therefore, the Tribunal did not accept that she was indeed monitoring the Claimant's performance during this period of time. She was not in a position to judge one way or the other whether there had been any significant improvement. Given the absence of judging such improvement, the Tribunal doubted the reasons for the Claimant's dismissal as being accurate and honest as set out in the letter of dismissal.

20 In the above circumstances, the onus had shifted to the Respondent to establish on the balance of probabilities that the dismissal of the Claimant involved no discrimination at all. As the Tribunal did not accept that evidence given by the Respondent that the Claimant was dismissed for the reasons that were stated it was open to the Tribunal to infer that the reason for dismissal was the Claimant's pregnancy. The reason advanced by the Respondent relied on the alleged conduct/performance of the Claimant as found by the Tribunal in the principal findings of fact above. The Tribunal noted that the Claimant did not have sufficient service to claim ordinary unfair dismissal and that some employers are cavalier as to the process they follow when dismissing employees in that position. This case is not simply concerned with process although in this case, the process followed to dismiss the Claimant was poor. The Tribunal was unanimous in finding that the reasons advanced by the Respondent for the dismissal of the Claimant were hollow. The events did occur but they were minor and the Claimant apologised for them at the time. This appeared at the time to be satisfactory to Mrs Wright as the Claimant was permitted to return to work and carry on working for a further 18 days without concern. At that stage the Respondent decided to terminate the Claimant's employment in the absence of a meeting and in the letter of dismissal cited two matters that did not take place at all. These were the mention of performance targets (which were not set) and monitoring performance from 24 September (which did not happen). The appeal was dealt with by Mrs. Wright who was also the dismissing officer. She was advised not to deal with the appeal on the basis of good practice that the appeal officer should be independent. Mrs. Wright did not explain adequately why she did not follow this advice. In the light of all of the Tribunals above findings, it was unanimous in finding that he Respondent had failed to discharge the burden on it of proving on the balance of probabilities that the dismissal was not discriminatory. The Claimant therefore succeeds in her claim under section 18 EQA. With regard to her claim relating to unfavourable treatment relating to the Respondent's failure to undertake a risk assessment, the Tribunal came to the view that this part of her claim fails as the Respondent's Director, Ms. Wright was away for most of the period from 24 September to 12 October 2018 and was not in a position to organise such assessment. She was the only relevant officer in the Respondent's organisation that

authority to deal with personnel issues and as she was away for most of this period, she could not do so prior to the Claimant's dismissal.

21 Accordingly, the matter is listed for a remedy hearing on 12 February 2020.

Employment Judge Hallen

Dated: 29 October 2019