



## EMPLOYMENT TRIBUNALS

**Claimant**  
**Mrs H Ismail**

**v**

**Respondent**  
**Debenhams Retail Plc**

## PRELIMINARY HEARING

**Heard at:** London South Employment Tribunal

**On:** 14 October 2019

**Before:** Employment Judge Anne Martin

### **Appearances**

**For the Claimant:** Mr Onwudiwe – McKenzie Friend

**For the Respondent:** Mr Perry - Counsel

## JUDGMENT

The judgment of the Tribunal is that the Claimant's claim for discrimination on the protected characteristic of disability was struck out on 20 September 2019 on her non-compliance with an unless order made on 19 August 2019.

The Claimant's claim for unfair dismissal is unaffected by this judgment.

## REASONS

1. The Tribunal has considered whether the Claimant has complied with the terms of the unless order made by her on 19 August 2019 in which the Tribunal directed that the relevant dates for the issues for the Tribunal to be determined were governed by the Claim form and that the relevant dates were between 16 November 2017 and 5 May 2018. At the hearing in July, Judge Martin carefully explained exactly what was required, and set this out very clearly in her order which emphasised the consequences of non-compliance.
2. The Tribunal read the document that purports to comply with these orders carefully and has read the submissions made by the Respondent and also listened carefully to what was said during the telephone preliminary hearing by both parties.

3. The Tribunal finds that there was material non-compliance with the unless order in that the Claimant has not set out as required by paragraph 1.2 of the Order the provision relied on within the PCP. He simply refers to the absence policy.
4. The Claimant has not provided information relating to paragraphs 1.3 or 1.4 of the order at all.
5. In relation to paragraph 1.5 the Claimant has referred to matters outside the dates 16 November 2017 and 5 May 2019, with only one matter falling within this time period. This is set out at paragraph 14a of his particulars. However, the Claimant has not addressed 'clearly how she says the treatment complained of was because of the "something arising" in consequence of the disability' and has not addressed the order that her response "must set out what the "something arising" is.
6. In the circumstances, the Claimant's claim of disability was struck out at 4 pm on 20 September 2019 being the date of non-compliance. The Claimant's claim of unfair dismissal is unaffected.
7. The parties were notified of the content of this judgment by email dated 14 October 2019.

Employment Judge Anne Martin

Date: 20 November 2019