



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4102324/2017

Mrs Ellen Mart

Claimant
In Person

Assessment Inc Ltd

Respondents
Represented by:
Ms Lorna Davis –
Solicitor

JUDGMENT

The claimant's complaint alleging unfair constructive dismissal by the respondents having been withdrawn by the claimant at this Preliminary Hearing that part of her claim against the respondents is dismissed by the Tribunal is under **Rule 52 of the Rules contained in Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013** but the remaining part of the claim alleging unlawful indirect disability discrimination by the respondents remains standing, and it will proceed to a further Case Management Preliminary Hearing listed for 15 December 2017.

Case No: 4102324/2017

REASONS

- 1 In the course of the telephone conference call Case Management Preliminary Hearing held before me, on the afternoon of Friday 6 October 2017, when I was sitting in the Hearing Agenda, at Section 2.3, having considered matters further, she wished to withdraw her unfair constructive dismissal claim against the respondents but proceed with her complaint under **Section 19 of the Equality Act 2010** that she had been indirectly discriminated against by the respondents on grounds of her asserted disability status. She accepted that, as per the respondents' ET3 response, she does

not have 2 years' qualifying service to bring a complaint of unfair constructive dismissal.

- 2 Following discussion, and clarification of the claimant's position, the claimant confirmed that she was withdrawing that part of the claim against the respondents, and I treated her oral statement to that effect as confirmation of her previous written withdrawal of that part of the claim under **Rule 51 of the Rules contained in Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013**, thus bringing that part of the claim before the Tribunal to an end.
- 3 In these circumstances, having heard further from Ms Davis, the respondents' representative, and the claimant not objecting, I further decided it was appropriate to issue a **Rule 52** Judgment, dismissing that part of the claim against the respondents, following upon its withdrawal by the claimant, which means that the claimant may not commence a further complaint against the respondents raising the same, or substantially the same, complaint of unfair constructive dismissal by the respondents, arising from the termination of her employment with the respondents, as a Disability Analyst, effective on 15 May 2017.
- 4 For the avoidance of any doubt, the remaining part of the claim brought by the claimant against the respondents, alleging unlawful indirect disability discrimination by the respondents, remains standing, and it will proceed to the further Case Management Preliminary Hearing before an Employment Judge sitting alone, to be heard at the Edinburgh Employment Tribunal on 15 December 2017, as ordered at this Preliminary Hearing.

Employment Judge:	G Ian McPherson
Date of Judgement:	12 October 2017
Entered in register:	19 October 2017
And copied to parties	