



EMPLOYMENT TRIBUNALS

Claimant: Miss L Gordon

Respondent: Boots Management Services Ltd

Heard at: Nottingham **On:** Friday 3 April 2020

Before: Employment Judge P Britton (sitting alone)

Representatives

Claimant: Mr L Mann, Solicitor

Respondent: Ms S Bowen of Counsel

JUDGMENT

The Employment Tribunal Judge gave judgment as follows:-

1. The amendment to the particulars of claim insofar as it relates to the events between circa post 13 May 2019 and up to the dismissal of the Claimant's appeal relating to her dismissal, and alleging in respect thereof unfavourable treatment pursuant to s15 of the Equality Act 2020 and also failure to make reasonable adjustment pursuant to s20-22 is granted. For the avoidance of doubt this pleading supersedes all of that previously pleaded. However, that element of the amended particulars relating to the wages issue is refused. The Claimant will now file a further amended pleading deleting references to the purported wages issue.
2. Otherwise directions are hereinafter set out.

REASONS

Background to this hearing

1. I heard an open attended preliminary hearing on 16 December 2019. Both parties had the same representatives as before me today. Apart from the disability related issues, which I set out in the record of that hearing issued to the parties on the 16th January 2020, there was a claim relating to wages pursuant to the provisions of the Employment Rights Act 1996. The same factual scenario as pleaded therein is repeated in the proposed amendment before me but now based upon s15 and s20-22 of the Equality Act 2010. But the entirety of the wages claim as it then was, was abandoned at the PH and thus dismissed upon withdrawal. I am with Counsel for the Respondent that it is an abuse of process to now seek to bring it back in under the EQA. Therefore, I refuse that element of the application to amend.

As to the rest of the proposed amended pleading presented via Mr Mann for the Claimant on 31 March, it reflects what I said at the PH and the need for the Claimant to confine the scope of her claim as I suggested. Ms Bowen is not instructed to oppose that amendment to the claim and thus I grant it.

2. Obviously the Respondent will now need time to file an amended response and which I grant.

3. Disability has not been conceded by the Respondent albeit I made observations last time, and the Claimant's medical records have not as yet been requested by the Respondent, but Mr Mann quoted from what appears to be an OH report dated 12 October 2018 in which disability appears to have been accepted. Ms Bowen does not have the complete document. Mr Mann will now send it to the Respondent with an impact statement for the Claimant. The Respondent can then further consider its position.

4. The Claimant has now sent a revised schedule of loss which we discussed. My provisional opinion is that the claim for injury to feelings is overstated and that furthermore this is not an aggravated damages scenario. This is important because the indication is that the Respondent would consider Judicial Mediation (JM) if there was more realism. Mr Mann is therefore at the suggestion of Ms Bowen going to send his client's without prejudice position. The Claimant is willing to enter JM.

5. Therefore, I am going to list a further TCM P before me to discuss, post the directions I am now giving, as to whether JM can be listed. If not, the final directions for the already listed main hearing in December can be made.

Employment Judge P Britton

Date: 7 April 2020

JUDGMENT SENT TO THE PARTIES ON 9 April 2020

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FOR THE TRIBUNAL OFFICE

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