



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr. J Marsh

**First Respondent:** Usman Salim

**Second Respondent:** Siddra Khatoon

## JUDGMENT

**Employment Tribunals Rules of Procedure 2013 – Rule 21**

1. The claim of discrimination arising from disability SUCCEEDS.
2. The claim of wrongful dismissal SUCCEEDS.
3. The remedy to which the claimant is entitled will be determined at a hearing.

## REASONS

1. No response has been filed. No application has yet been made in accordance with rule 20 to extend time to file the response (see the case management order dated 14 October 2020).
2. The respondents' representative attended the preliminary hearing at which I considered whether or not to make a judgment under rule 21. I permitted him to take part in the hearing to, inter alia, make submissions on the issue of whether a determination could properly be made on the material before me.
3. The question for me to decide is whether, on the available material, a determination can properly be made of the claim or part of it. The material before me includes the ET1, case management agendas filed by both parties and a schedule of loss prepared by the claimant.
4. The basis of the claim is clearly stated in sufficient detail in the ET1. If the pleaded facts were established by evidence, the claim would succeed. There is no issue as to jurisdiction. I accept that the respondent's case management agenda indicates that the respondent, if it had filed an ET3, would have resisted the claim. Further, it indicates that the respondent intends to apply for an extension of time to file the ET3. Finally it sets out in the list of issues the standard

issues which a tribunal needs to determine in a s 15 claim and from that it can be inferred that the respondent intends to dispute the claimant's position on those issues. There is no indication of the respondent's position in relation to any of those issues, nor is there any indication of any basis on which the respondent intends to resist the claim on the material before me.

5. I therefore conclude that I can properly determine liability on the basis of the information before me. On the basis of the facts pleaded by the claimant I am satisfied that the claimant would succeed on all the issues arising in a s 15 claim and in a wrongful dismissal claim and I therefore issue this judgment under rule 21.
6. The claim includes a claim for loss of earnings and injury to feelings. I cannot properly determine remedy without information on the claimant's efforts to mitigate his loss or on the effects that the discrimination has had upon him. This will be determined at a hearing by a judge sitting alone.

Employment Judge **Buckley**

Date: 14 October 2020