



EMPLOYMENT TRIBUNALS

Claimant: Mr R McLean

Respondent: The Banks Group Limited

Heard: Remotely (by video link) **On:** 1, 2 and 3 June 2021

Before: Employment Judge S Shore
NLM – Ms S Don
NLM – Ms J Johnson

Appearances

For the claimant: In Person

For the respondent: Mr J-P van Zyl, Solicitor

JUDGMENT ON LIABILITY

The unanimous decision of the Tribunal is that:

1. The claimant's claim of direct age discrimination contrary to section 13 of the Equality Act 2010 was not well-founded and fails. We find that whilst the relationship between the claimant and three named colleagues was not always good, none of his colleagues' acts were acts of direct discrimination because of age.
2. The claimant's claims of automatic unfair dismissal for any of the principal reasons set out in:
 - 2.1. section 57A and 99 of the Employment Rights Act 1996 (taking time off for dependents);
 - 2.2. section 100(1)(c) of the Employment Rights Act 1996 (bringing circumstances connected with his work that he reasonably believed were harmful to health or safety); or
 - 2.3. section 100(1)(e) of the Employment Rights Act 1996 (in circumstances of danger, he took or proposed to take appropriate steps to protect himself or others from the danger)

were not well-founded and fail. We find that the principal reason for the claimant's dismissal was his absence record for personal illness, particularly his absence on 12 July 2019 and his perceived attitude in the disciplinary hearing of 15 July 2019.

Note: This has been a remote hearing. The parties did not object to the case being heard remotely. It was not practicable to hold a face to face hearing because of the Covid19 pandemic.

Employment Judge Shore
3 June 2021