

RA



EMPLOYMENT TRIBUNALS

Claimant: Ms L Morris
Respondent: London Borough of Hackney
Heard at: East London Hearing Centre
On: 14 and 15 February 2019
Before: Employment Judge Barrowclough

Representation

Claimant: In person
Respondent: Miss S King (Counsel)

JUDGMENT ON OPEN PRELIMINARY HEARING

1. The Claimant's complaints of:
 - 1.1 A breach of the public sector equality duty (s.149 Equality Act 2010);
 - 1.2 A breach of the Health and Safety at Work Act 1974;
 - 1.3 A failure to recognise the Claimant's right to full development of her human potential and sense of dignity (Article 24A European Convention on Human Rights);
 - 1.4 A breach of the ACAS Code of Practice;
 - 1.5 Detrimental treatment in breach of s.45A Employment Rights Act 1996;
 - 1.6 Breaches of ss.10 and 12 Employment Rights Act 1999;
 - 1.7 Pregnancy discrimination in breach of s.18 Equality Act 2010 and being subjected to a detriment in breach of s.47C Employment Rights Act 1996;

- 1.8 A breach of s.94 National Minimum Wage Act 1998;
- 1.9 Discrimination in breach of ss.12-27 Equality Act 2010 because of the Claimant's disability of dyslexia and/or arising from the Respondent's alleged failure to support the Claimant's requests for training in 2010 and/or in 2016: -

are all stuck out as having no reasonable prospects of success, pursuant to rule 37(1)(a) Employment Tribunals (Constitution and Rules of Procedures) Regulations 2013.

2. The Claimant's complaints of disability discrimination because of /or arising from her condition of neuralgia or hypersensitivity of her nervous system, and the issue of whether or not those complaints (or any of them) are out of time, go forward to be determined by the Tribunal, together with her complaint of unfair dismissal at the Full Merits hearing commencing 11 June 2019, with a 6 day time estimate.

CASE MANAGEMENT ORDERS

1. In view of the fast approaching Full Merits hearing, it is very important that the specific discrimination complaints and the issues to be determined by the Tribunal are identified clearly. Accordingly, the Respondent is to prepare a draft List of Issues and send it to the Claimant no later than **8 March 2019**, and the Claimant is to respond by way of agreement, disagreement or comment on no more than 3 pages of A4 paper, no later than **29 March 2019**. A Telephone Case Management hearing to ensure the issues have been identified and finalised has been listed before Employment Judge Gilbert at 11:00am on **29 April 2019**.
2. The Tribunal notes that the reasonable adjustment for which the Claimant contends are that she should not have been transferred from the 'Toddler Room' to the 'Baby Room' because of her neuralgia/nervous hypersensitivity; alternatively, that as soon as the nature of that condition became clear, she should have been returned to the 'Toddler Room'.
3. If the Respondent wishes to pursue an application that the Tribunal should appoint and pay for an expert to report on the nature, extent and consequences of the Claimant's alleged disability of neuralgia/nervous hypersensitivity, then it should apply to the Tribunal no later than **1 March 2019**, and the Claimant is at liberty to respond if she wishes by **15 March 2019**.
4. The parties are to prepare and exchange Lists of Documents which are in their possession or power and which relate to the Claimant's employment and its termination no later than **8 April 2019**, and to provide copies of such documents in those lists, as are requested within a reasonable time thereafter. The Respondent is to prepare a draft index for the trial bundle no later than **15 April 2019**, and the bundle is to be agreed by the parties no later than **23 April 2019**. The Respondent is to provide the Claimant with one copy of the trial bundle when it has been agreed, and to prepare and bring an additional 5 copies of the bundle to the Full hearing.
5. Witness statements from all witnesses to be called to give evidence at the Full hearing, including for the avoidance of doubt the Claimant, setting out the evidence

they wish to give in chronological order, are to be exchanged by the parties no later than **28 May 2019**.

6. The Claimant has not been in paid employment or work since her dismissal by the Respondent and her losses fundamentally comprise for lost earnings. The Claimant is to serve a Schedule of Loss on the Respondent no later than **15 April 2019**.

7. Other matters

7.1 Public access to employment tribunal decisions

All judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

7.2 Any person who without reasonable excuse fails to comply with an Order to which section 7(4) of the Employment Tribunals Act 1996 applies shall be liable on summary conviction to a fine of £1,000.00.

7.3 Under rule 6, if this Order is not complied with, the Tribunal may take such action as it considers just which may include (a) waiving or varying the requirement; (b) striking out the claim or the response, in whole or in part, in accordance with rule 37; (c) barring or restricting a party's participation in the proceedings; and/or (d) awarding costs in accordance with rule 74-84.

7.4 You may apply under rule 29 for this Order to be varied, suspended or set aside.

Employment Judge Barrowclough

Date: 21 February 2019

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

Public access to employment tribunal decisions

All judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.