



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant
Miss J Wyatt

Respondent
Diasorin SpA UK Branch

CASE MANAGEMENT DISCUSSION BY TELEPHONE/CVP VIDEO LINK

HELD AT London South ON 31 July 2020

Regional Employment Judge Freer (sitting alone)

Appearances

For Claimant: In person
For Respondent: Ms L Townley, Solicitor

Claims, Issues and General Matters

- 1 The parties have previously indicated their interest in participating in Judicial Mediation. This telephone Case Management Discussion was held for the purpose of offering the parties the facility of Judicial Mediation which they both accepted.
- 2 In respect of facilities at the Judicial Mediation, no additional facilities were required.
- 3 It was emphasised that the Respondent must ensure that a decision maker is present at the Judicial Mediation with full authority to resolve matters. The Respondent's representative confirmed that such a person would be present who

would be empowered to conclude a settlement of the case and having full authority to resolve matters.

- 4 Mediation uses a judicial resource of the Tribunal that could be used on other cases. All parties agreed to enter into the judicial mediation with a spirit of compromise and meaningful engagement. If the parties do not do so the judge may terminate the mediation
- 5 The issues in the Judicial Mediation are as identified in the case management order of 27 January 2020 and will include issues in relation to remedy.
- 6 The Respondent agreed to arrange the availability of an ACAS officer and will provide the Claimant with draft general terms of settlement on or before 16 October 2020.
- 7 Documents for the Judicial Mediation will be limited to the claim form, response form, case management order and schedules of loss.
- 8 In that regard, the Claimant will supply an updated schedule of loss to the Respondent and the Tribunal on or before 21 August 2020. For assistance with claiming any sum in respect of injury to feelings for the sex discrimination claim, the Claimant may wish to internet search 'Presidential Guidance on Vento Bands' at:

<https://www.judiciary.uk/wp-content/uploads/2015/03/vento-bands-presidentialguidance-20170905.pdf>

with an updating addendum at <https://www.judiciary.uk/wp-content/uploads/2013/08/vento-bands-presidential-guidance-first-addendum230318.pdf>

a second updating addendum at <https://www.judiciary.uk/wpcontent/uploads/2015/03/Presidential-Guidance-Vento-Bands-SecondAddendum-25-March-2019.pdf>

It depends upon the date when the claim was presented as to which Guidance is applicable.

The Claimant also agree to include on the schedule any other settlement terms being sought in addition to compensation.

- 9 The Respondent agreed to provide a counter schedule of loss to the Claimant and the Tribunal on or before 18 September 2020.
- 10 The Judicial Mediation will take place by way of a private preliminary hearing on 20 October 2020. The Judicial Mediation will commence at 9.30am and the

parties agreed for it to be conducted by CVP video link. Logging in details will be provided closer to the hearing.

- 11 Explanatory notes for the mediation are attached.
- 12 The parties are warned that it is contempt of court and a criminal offence for anyone to record or transmit all or any part of the mediation. This includes transmitting the mediation or taking or allowing anyone to take any screenshot or video capture either using the device this hearing is being viewed on or any other remote device and includes a phone.
- 13 The full hearing in this matter remains listed before a full Tribunal for four days commencing on 30 November 2020 at 10.00am or as soon thereafter as it can be heard at Montague Court, 101 London Road, West Croydon CR0 2RF or such other venue as the Tribunal may direct.
- 14 Should the mediation be unsuccessful the directions made in preparation for the full hearing are amended or varied as follows:

The respondent will provide the Claimant with the Tribunal bundle of documents on or before 02 November 2020 and witness statement exchange will take place on 09 November 2020

Regional Employment Judge Freer

Date: 31 July 2020

Sent to the parties on 31 July 2020

For the Tribunal Office:

JUDICIAL MEDIATION

EXPLANATORY NOTE TO THE PARTIES

1. Alternative Dispute Resolution is a priority for the Government. Judicial mediation is seen as one of the possible ways to achieve this. The Employment Tribunals operate a scheme in all regions in England and Wales.
2. Judicial mediation involves bringing the parties in a case together for a mediation preliminary hearing. The judicial mediation is conducted by a trained Employment Judge, who remains neutral and tries to assist the parties to resolve their dispute. The Employment Judge will help to identify issues in dispute, but will not make a decision about the case, nor give an opinion on the merits of the case. The role of the Employment Judge as mediator is to help the parties find ways to resolve their dispute by mutual agreement. Resolution is not limited to the remedies available at a hearing.
3. Whilst judicial mediation is part of the process of resolving employment disputes, it is an alternative to a Tribunal hearing, but not an alternative to ACAS conciliation. ACAS and the judiciary of the Employment Tribunals work collaboratively in relation to judicial mediation. The statutory duty placed on ACAS is not compromised by the process, and ACAS and the judiciary remain independent of each other at all times.
4. There are no restrictions on the jurisdictions that will be considered for judicial mediation, although it is unlikely that equal pay claims will normally be suitable for this process.
5. An important factor in assessing suitability is whether there is an ongoing employment relationship.
6. Whilst cases suitable for judicial mediation are identified in a number of different ways, identification is usually by an Employment Judge at a preliminary hearing for case management purposes. At that preliminary hearing, suitability for judicial mediation is considered, the parties advised of the possibility of an offer of judicial mediation, their interest (or otherwise) noted, and normal case management orders and directions made.

7. If the parties agree to consider an offer of judicial mediation, the file will be passed to the Regional Employment Judge, who will apply agreed criteria and determine whether the case qualifies for an offer of judicial mediation. An offer of judicial mediation is normally made at a telephone preliminary hearing with the parties when timetables for the mediation will be set, a stay or variation of the existing case management orders made if necessary, and the dates for the judicial mediation agreed. Agreement will also be reached on the issues for the judicial mediation (which may be wider than those determinable by a Tribunal at a hearing), who will attend the mediation (which must include people empowered to make decisions), and any requirements of the parties for the conduct of the mediation.
8. It is not possible to offer judicial mediation in all cases because of resource constraints and suitability of the issues to mediation. Parties are notified if an offer cannot be made.
9. Provided that the offer of judicial mediation is accepted by all parties, the matter proceeds to a one or two day mediation.
10. The judicial mediation will be carried out by an experienced Employment Judge trained in mediation. A facilitative mediation technique is adopted and applied.
11. The judicial mediation is held in private and in circumstances which are entirely confidential with appropriate facilities made available. The contents or the events at a judicial mediation may not be referred to at any subsequent hearing. The Employment Judge mediating will play no further role in the case should it proceed to a hearing.
12. The judiciary of the Employment Tribunals may, on occasions, and with the prior consent of the parties, contact ACAS to reactivate conciliation, either during, or at the end, of the judicial mediation. This contact is usually by telephone conference call with the parties and an appropriate ACAS officer.
13. If there are any matters of concern or any explanation required then please write to the Regional Employment Judge for clarification.