



EMPLOYMENT TRIBUNALS

Claimant: Mrs L I Odii

Respondents: Somerset Bridge Ltd

Heard: Remotely (by video link) **On:** 1, 2, 3, 4 and 5 November 2021

Before: Employment Judge S Shore
NLM – Mrs S Don
NLM – Mr P Curtis

Appearances

For the claimant: Ms I Egan, Counsel
For the respondent: Mr A Griffiths, Counsel

JUDGMENT ON LIABILITY

The unanimous decision of the Tribunal is that:

1. The claimant has changed her name to Laura Igwe Odii since the commencement of these proceedings and her name is amended in the Tribunal records by consent.
2. By consent, the name of the respondent is amended to Somerset Bridge Ltd.
3. The application made by the respondent in Mr Griffiths' closing submissions that the case be entirely struck out (except for the claim of wrongful dismissal/breach of contract), as a fair hearing was not possible, is refused.
4. The claimant's claims of pregnancy and maternity discrimination (contrary to section 18 of the Equality Act 2010 (ERA)) were not well-founded and are dismissed. We find that:
 - 1.1. The respondent extended the claimant's probationary period;
 - 1.2. The respondent kept the extension in place;
 - 1.3. The respondent raised performance concerns about the claimant;
 - 1.4. The respondent subjected the claimant's performance to close monitoring;

- 1.5. The respondent did not subject the claimant's performance to criticism; and
 - 1.6. The respondent did not make critical and offensive comments to the claimant related to her pregnancy.
2. We find that the respondent's treatment of the claimant as set out in paragraphs 1.1. to 1.4. above was not unfavourable treatment of the claimant. In the alternative, had we found that the treatment in paragraphs 1.1. to 1.4. was unfavourable treatment, we would not have found that the unfavourable treatment was because of pregnancy.
3. The claimant's grievance dated 13 July 2020 was a protected act. The claimant's allegations that her probationary period was extended; that the extension was kept in place; that performance concerns were raised about the claimant; and that her performance was closely monitored and criticised because she did the protected act were all dismissed upon withdrawal.
4. We find that the claimant's performance parameters and expectations were not changed weekly, or at all. In the alternative, if we had found that the claimant's performance parameters and expectations were changed weekly, or at all, we would not have found that this was because she did the protected act. That claim is dismissed.
5. We find that the claimant was not subjected to an intimidating and aggressive rant on 4 August 2020. In the alternative, if we had found that the claimant was subjected to an intimidating and aggressive rant on 4 August 2020, we would not have found that this was because she did the protected act. That claim is dismissed.
6. The claimant's claim of automatic unfair constructive dismissal contrary to section 99(1) of the Employment Rights Act 1996 (ERA) was not well-founded. We find that the claimant was not dismissed. In the alternative, had we found that the claimant was dismissed, we would not have found that the reason or principal reason for dismissal was of a kind prescribed by section 99, namely pregnancy, childbirth or maternity.
7. For the sake of completeness, we also record that paragraph 4.3 of the list of issues produced in the case management order dated 11 February 2021, which indicates a claim of "Discriminatory dismissal contrary to s.30 Equality Act 2020" does not constitute a claim for which the Tribunal has jurisdiction. If the order was meant to refer to section 39 of the Equality Act 2010, then that section is the 'gateway' to bring claims of direct and indirect discrimination, harassment etc. under the Equality Act or, as in this case, by referral to legislation such as section 99 of the ERA.
8. The claimant did not have two years' continuous service as an employee at the date of the termination of her employment dismissal, so the Tribunal does not have the jurisdiction to hear a claim of 'standard' unfair dismissal.
9. The claimant's claim of wrongful dismissal/breach of contract (failure to pay notice pay) is not well- founded. The respondent did not breach the claimant's contract of employment.

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
5 November 2021