



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms M Dearden

**Respondent:** Sainsburys Supermarkets Ltd

**Heard at:** By CVP

**On:** 20<sup>th</sup> April 2022

**Before:** Employment Judge R F Powell

## Appearances

For the Claimant: In person

For the Respondent: Ms Wheeler, of counsel

## JUDGMENT

### The Judgment of the Employment Tribunal Is:

1. The claimant's application to amend her claim to plead disability discrimination contrary to section 15 of the Equality Act 2010 is allowed in respect of the facts set out in paragraphs 47 and 48 of the Case Management Order of Employment Judge Ryan, dated 14th January 2022:
  - a. That the claimant's sickness absence was something which arose from her disability.
  - b. That, because of her sickness absence, she was dismissed on 21<sup>st</sup> October 2020; which was an act of unfavourable treatment.
  - c. Such treatment was not objectively justified.
2. The claimant's application to amend her claim to plead that the principal reason for her dismissal was contrary to section 103A of the Employment Rights Act 1996 is allowed in part, in that the claimant may aver the three instances of protected public interest disclosures set out below:
  - a. On 1<sup>st</sup> April 2020 the claimant disclosed to the respondent's employee Mr Alan Grabham that the distance between employees working on the respondent's tills and customers packing their shopping was less than 2 metres. This disclosure tended to show there had been and was likely to be a

breach of health and safety because a two metre distance was the minimum acceptable for preventing the spread of the Covid 19 virus.

- b. On the 2<sup>nd</sup> April 2020, at 16.21, via an electronic message sent to the respondent's employee Mr Christopher Lewis, the claimant disclosed information tending to show the same health and safety concern as set out above.
  - c. On a date unknown, in April 2020, the claimant spoke to fellow employee; Mr Alwyn Jenkins. She disclosed the same information as set out above. She did so in the expectation that Mr Jenkins would state her concern at a staff meeting known by the title; "Great Place to Work Meeting".
3. The claimant's application to amend her claim to plead claims under sections 44 and 100 of the Employment Rights Act 1996 is refused.

Employment Judge R F Powell

**20<sup>th</sup> April 2022**

Sent to the parties on 3 May 2022

For the Tribunal Office Mr N Roche

This judgment and the reasons were given orally at the hearing and the parties informed of their right to request written reasons.