



EMPLOYMENT TRIBUNALS

Claimant: Miss S Watson

Respondent: Integral Powertrain Limited

Heard at: Bury St Edmunds (remotely by video) **On:** 20-22 September 2022

Before: Employment Judge S Shore
NLM – Ms S Limerick
NLM – Ms S Williams

Appearances

For the claimant: In person

For the respondent: Mr A Hodge, Counsel

JUDGMENT AND REASONS ON LIABILITY

The unanimous decision of the Tribunal is that:

1. The claimant's claims of discrimination arising from disability (contrary to section 15 of the Equality Act 2010) fail and are dismissed.
2. The claimant's claim of failure to make reasonable adjustments was not presented within the time limit set out in section 123 of the Equality Act 2010 and the Tribunal does not find it just and equitable to extend time, so does not have jurisdiction to hear the claim, which fails and is dismissed.
3. The respondent did not unfairly dismiss the claimant, so her claim of unfair dismissal fails and is dismissed.
4. The Tribunal does not need to consider remedy because all the claimant's claims have been dismissed.

REASONS

Introduction and History of Proceedings

1. The claimant was employed as a Buyer by the respondent, a company that designs and builds propulsion systems, from 25 May 2016 to 7 August 2020. She started early conciliation with ACAS on 12 October 2020 and obtained an early conciliation certificate on 11 November 2020. She presented her claim to the Employment Tribunal on 8 December 2020.
2. The claimant's claim form indicated claims of unfair dismissal and disability discrimination.
3. A preliminary hearing by video was held on 7 January 2022 by Employment Judge (EJ) Lewis, who discussed the claimant's claim with her and suggested a number of possibilities for claims that could be brought in respect of the facts alleged in Miss Watson's ET1.
4. No list of issues (questions that this hearing had to find the answers to) was agreed at the preliminary hearing in January 2022 and no order was made for the parties to agree a list before this hearing. We are therefore grateful for the efforts of Mr Hodge, who produced a draft list of issues that appeared to encompass every potential claim that EJ Lewis had discussed with the claimant on the first morning of this hearing.

Issues

5. Before we took a break to complete our reading on the first morning, we asked Miss Watson to consider the list produced by Mr Hodge during the break with a view to her advising the Tribunal which claims she was proceeding with and which were not to be pursued.
6. On the resumption, Miss Watson confirmed the claims she was making, as set out above and agreed a list of issues. The Tribunal discussed the resulting list with the parties and made some amendments to account for the fact that the claimant's claim of failure to make reasonable adjustments was about the failure to provide an auxiliary aid, rather than the effect of a PCP and other matters, such as the issues on remedy for the unfair dismissal and discrimination claims. The final list is as follows:

UNFAIR DISMISSAL

1. *Did the Respondent dismiss the Claimant within the meaning of section 95(1)(a) of the Employment Rights Act 1996?*
2. *If so, was the Claimant dismissed for a potentially fair reason, namely redundancy, within the meaning of sections 98(2)(c) & 139(1) of the Employment Rights Act 1996?*

3. *If so, was the Claimant's dismissal fair and reasonable within the meaning of section 98(4) of the Employment Rights Act 1996?*

REMEDY FOR UNFAIR DISMISSAL

4. *Does the claimant wish to be reinstated or re-engaged to comparable employment or other suitable employment? She says she does not.*
5. *If there is a compensatory award, how much should it be? The Tribunal will decide:*
 - 5.1. *What financial losses has the dismissal caused the claimant?*
 - 5.2. *Has the claimant taken reasonable steps to replace their lost earnings, for example by looking for another job?*
 - 5.3. *If not, for what period of loss should the claimant be compensated?*
 - 5.4. *Is there a chance that the claimant would have been fairly dismissed anyway if a fair procedure had been followed, or for some other reason?*
 - 5.5. *If so, should the claimant's compensation be reduced? By how much?*
 - 5.6. *Does the statutory cap of fifty-two weeks' pay apply?*
 - 5.7. *What basic award is payable to the claimant, if any?*

DISABILITY DISCRIMINATION

Preliminary

6. *Does the Employment Tribunal have jurisdiction to consider a number of the Claimant's allegations of disability discrimination on the ground that they were not presented to the Employment Tribunal within the period of three months (subject to EC extension) of the date on which the alleged acts were done?*
7. *If not, can the Claimant rely on an act extending over a period?*
8. *If not, is it nonetheless just and equitable for the Employment Tribunal to consider those allegations which are otherwise out of time?*

SECTION 15 - DISCRIMINATION ARISING FROM DISABILITY

9. Did the Respondent treat the Claimant unfavourably by any of the following:

- 9.1. *Stuart Hale not speaking to the Claimant following her return to work in July 2019.*
- 9.2. *Stuart Hale not acknowledging the Claimant following her return to work in July 2019.*
- 9.3. *Stuart Hale not asking the Claimant how she was managing following her return to work in July 2019.*
- 9.4. *Simona Beardmore-Baldwin's questioning of the Claimant at a meeting on 19th July 2019.*
- 9.5. *Simona Beardmore-Baldwin stating to the Claimant that "the company won't waste money" in or about October 2019.*
- 9.6. *Asking the Claimant on her return to work in November 2019 to undertake difficult technical buying work.*
- 9.7. *Stuart Hale belittling the Claimant at a meeting in or about April 2020.*
- 9.8. *Dismissing her on 7th August 2020.*

10. *If so, was the reason for the said unfavourable treatment because of something arising in consequence of disability?*

11. *If so, was the said unfavourable treatment nonetheless a proportionate means of achieving a legitimate aim?*

SECTION 20 - FAILURE TO MAKE REASONABLE ADJUSTMENTS

12. *Did the lack of an auxiliary aid, namely a new chair, put the claimant at a substantial disadvantage compared to someone without the claimant's disability, in that without the chair, the claimant would have been uncomfortable and her back condition may have been exacerbated?*

13. *Did the respondent know, or could it reasonably have been expected to know that the claimant was likely to be placed at that disadvantage?*
14. *If so, did the Respondent take such steps as it was reasonable to have to take to provide the auxiliary aid?*

REMEDY FOR DISCRIMINATION

15. *What financial losses has the discrimination caused the claimant?*
16. *Has the claimant taken reasonable steps to replace lost earnings, for example by looking for another job?*
17. *If not, for what period of loss should the claimant be compensated?*
18. *What injury to feelings has the discrimination caused the claimant and how much compensation should be awarded for that?*
19. *Has the discrimination caused the claimant personal injury and how much compensation should be awarded for that?*
20. *Is there a chance that the claimant's employment would have ended in any event? Should their compensation be reduced as a result?*
21. *Did the ACAS Code of Practice on Disciplinary and Grievance Procedures apply?*
22. *Did the respondent or the claimant unreasonably fail to comply with it?*
23. *If so is it just and equitable to increase or decrease any award payable to the claimant?*
24. *By what proportion, up to 25%?*
25. *Should interest be awarded? How much?*

7. As we did not find in favour of the claimant on any of her claims, we do not have consider any issues concerning remedy, so have not considered paragraphs 4-5 or 13-23 of the above list.

Law

8. For the purposes of the unfair dismissal claim, the relevant section of the Employment Rights Act 1996 is section 98.

“Section 98 Employment Rights Act 1996

(1) *In determining for the purposes of this Part whether the dismissal of an employee is fair or unfair, it is for the employer to show-*

(a) the reason (or, if more than one, the principal reason) for the dismissal, and

(b) that it is either a reason falling within subsection (2) or some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held.

(2) *A reason falls within this subsection if it-*

(a) Relates to the capability or qualifications of the employee for performing work of the kind which he was employed by the employer to do,

(b) Relates to the conduct of the employee,

(c) Is that the employee was redundant, or

(d) is that the employee could not continue to work in the position which he held without contravention (either on his part or on that of his employer) of a duty or restriction imposed by or under an enactment.

(3) *In subsection (2)(a)—*

(a) “capability”, in relation to an employee, means his capability assessed by reference to skill, aptitude, health or any other physical or mental quality, and

(b) “qualifications”, in relation to an employee, means any degree, diploma or other academic, technical or professional qualification relevant to the position which he held.

(4) *Where the employer has fulfilled the requirements of subsection (1), the determination of the question whether the dismissal was fair or unfair (having regard to the reason shown by the employer)-*

(a) depends on whether in the circumstances (including the size and administrative resources of the employer’s undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee, and

(b) shall be determined in accordance with equity and the substantial merits of the case.”

9. The statutory law relating to the claimant’s claims of discrimination is contained in the Equality Act 2010 (EqA). The relevant sections of the EqA were; section 15 (discrimination arising from disability) sections 20 and 21 (failure to make reasonable adjustments, and section 123 (time limits). The relevant provisions are set out here:

15. Discrimination arising from disability

A person (A) discriminates against a disabled person (B) if—

- (a) A treats B unfavourably because of something arising in consequence of B's disability, and*
- (b) A cannot show that the treatment is a proportionate means of achieving a legitimate aim.*

The section does not apply if A shows that A did not know, and could not reasonably have been expected to know, that B had the disability.

20. Adjustments for disabled persons

Duty to make adjustments

(1) Where this Act imposes a duty to make reasonable adjustments on a person, this section, sections 21 and 22 and the applicable Schedule apply; and for those purposes, a person on whom the duty is imposed is referred to as A.

(2) The duty comprises the following three requirements.

(3) The first requirement is a requirement, where a provision, criterion or practice of A's puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage.

(4) The second requirement is a requirement, where a physical feature puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage.

(5) The third requirement is a requirement, where a disabled person would, but for the provision of an auxiliary aid, be put at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to provide the auxiliary aid.

(6) Where the first or third requirement relates to the provision of information, the steps which it is reasonable for A to have to take include steps for ensuring that in the circumstances concerned the information is provided in an accessible format.

(7) A person (A) who is subject to a duty to make reasonable adjustments is not (subject to express provision to the contrary) entitled to require a disabled person, in relation to whom A is required to comply with the duty, to pay to any extent A's costs of complying with the duty.

(8) A reference in section 21 or 22 or an applicable Schedule to the first, second or third requirement is to be construed in accordance with this section.

(9) In relation to the second requirement, a reference in this section or an applicable Schedule to avoiding a substantial disadvantage includes a reference to—

- (a) removing the physical feature in question,*
- (b) altering it, or*

(c) providing a reasonable means of avoiding it.

(10) A reference in this section, section 21 or 22 or an applicable Schedule (apart from paragraphs 2 to 4 of Schedule 4) to a physical feature is a reference to—

(a) a feature arising from the design or construction of a building,

(b) a feature of an approach to, exit from or access to a building,

(c) a fixture or fitting, or furniture, furnishings, materials, equipment or other chattels, in or on premises, or

(d) any other physical element or quality.

(11) A reference in this section, section 21 or 22 or an applicable Schedule to an auxiliary aid includes a reference to an auxiliary service.

(12) A reference in this section or an applicable Schedule to chattels is to be read, in relation to Scotland, as a reference to moveable property.

(13) The applicable Schedule is, in relation to the Part of this Act specified in the first column of the Table, the Schedule specified in the second column.

21. Failure to comply with duty

(1) A failure to comply with the first, second or third requirement is a failure to comply with a duty to make reasonable adjustments.

(2) A discriminates against a disabled person if A fails to comply with that duty in relation to that person.

(3) A provision of an applicable Schedule which imposes a duty to comply with the first, second or third requirement applies only for the purpose of establishing whether A has contravened this Act by virtue of subsection (2); a failure to comply is, accordingly, not actionable by virtue of another provision of this Act or otherwise.

123. Time limits

(1) Subject to sections 140A and 140B proceedings on a complaint within section 120 may not be brought after the end of—

(a) the period of 3 months starting with the date of the act to which the complaint relates, or

(b) such other period as the employment tribunal thinks just and equitable.

(2) Proceedings may not be brought in reliance on section 121(1) after the end of—

(a) the period of 6 months starting with the date of the act to which the proceedings relate, or

(b) such other period as the employment tribunal thinks just and equitable.

(3) For the purposes of this section—

(a) conduct extending over a period is to be treated as done at the end of the period;

(b) failure to do something is to be treated as occurring when the person in question decided on it.

(4) In the absence of evidence to the contrary, a person (P) is to be taken to decide on failure to do something—

(a) when P does an act inconsistent with doing it, or

(b) if P does no inconsistent act, on the expiry of the period in which P might reasonably have been expected to do it.

Housekeeping

10. The claimant is unrepresented. On the first morning of the hearing, we reminded her that the Tribunal operates on a set of Rules. Rule 2 sets out the overriding objective of the Tribunal (its main purpose), which is to deal with cases justly and fairly. It is reproduced here:

The overriding objective of these Rules is to enable Employment Tribunals to deal with cases fairly and justly. Dealing with a case fairly and justly includes, so far as practicable —

(a) ensuring that the parties are on an equal footing;

(b) dealing with cases in ways which are proportionate to the complexity and importance of the issues;

(c) avoiding unnecessary formality and seeking flexibility in the proceedings;

(d) avoiding delay, so far as compatible with proper consideration of the issues;
and

(e) saving expense.

A Tribunal shall seek to give effect to the overriding objective in interpreting, or exercising any power given to it by, these Rules. The parties and their representatives shall assist the Tribunal to further the overriding objective and in particular shall co-operate generally with each other and with the Tribunal.

11. We strived to ensure that Miss Watson was given every opportunity to put her case and ask any questions she had about procedure and the law.
12. The parties produced a joint bundle of 370 pages. If we refer to pages in the bundle, the page number(s) will be in square brackets (e.g. [43]).
13. Mr Hodge produced a chronology, which we found useful. He also submitted Outline Submissions on the first morning of the hearing that formed the basis of his closing submissions.

14. Miss Watson gave evidence in person and produced a witness statement that was initially dated 17 June 2022 and re-dated 6 September 2022 that ran to 8 pages and 34 paragraphs.
15. The claimant also produced a witness statement from William Webb that consisted of a single paragraph. His evidence was accepted by the respondent as unchallenged, so he was not called to give evidence in person.
16. Evidence was given in person on behalf of the respondent by:
 - 14.1. Stuart Hale, who was the claimant's direct line manager at the time covered by this claim. His witness statement consisted of 24 paragraphs.
 - 14.2. Gary Fielding, who was Mr Hale's manager and completed the redundancy matrix scoring. His witness statement considered of 45 paragraphs.
 - 14.3. Simona Beardmore-Baldwin, who was the HR Manager for the respondent. Her witness statement ran to 42 paragraphs.
 - 14.4. Neil Tyagi, who is the Chief Commercial Officer for the respondent and was engaged in the redundancy consultations. His witness statement consisted of 16 paragraphs.
15. The claimant was cross-examined by Mr Hodge in some detail. All the respondent's witnesses were cross-examined by Miss Watson. We reminded her on a couple of occasions that if a witness' evidence is not challenged in cross-examination, the Tribunal may find that the unchallenged evidence is credible. The Tribunal asked some questions of all the respondent's witnesses.
16. At the end of her evidence, Miss Watson was given the opportunity to clarify or expand upon any of the answers she had given to questions she had been asked. Mr Hodge was offered the opportunity to ask re-examination questions of the respondent's witnesses.
17. The case malmanagement order of EJ Lewis had anticipated that some reading time may be required. After we had dealt with the preliminary issues at 10:00am on the first day, we took 90 minutes to complete our reading. We sent the parties a copy of the revised list of issues. On the resumption, Miss Watson was able to confirm that she was only proceeding with the claims of unfair dismissal, discrimination arising from disability and failure to make reasonable adjustments that appear in the list of issues above.
18. We set a timetable for the hearing that anticipated Mr Hodge taking two and a half hours cross-examining Miss Watson. We gave Miss Watson the remainder of the first day and the whole of the second day to cross-examine the respondent's witnesses. We expected to hear closing submissions on the morning of the third day before deliberating on our decisions and announcing a Judgment and reasons on liability only at the start of the fourth day. We would then deal with remedy, if required.

19. The case proceeded much more quickly than anyone anticipated and we finished all the evidence by 12:00pm on the second morning. We broke for an hour and then heard closing submissions.
20. We deliberated on our decision but were unable to complete notes that would have enabled us to give an oral judgement and reasons of the day, so asked the parties to return at 10:00am on the third day, when we delivered our judgment and reasons. The claimant asked for written reasons to be provided.
21. With the consent of the parties, the hearing was conducted by video on the CVP application.
22. As we have not found for the claimant on any part of her claim, a remedy hearing will not be required.

Findings of Fact

Preliminary Comments

23. All findings of fact were made on the balance of probabilities. If a matter was in dispute, we will set out the reasons why we decided to prefer one party's case over the other. If there was no dispute over a matter, we will either record that with the finding or make no comment as to the reason that a particular finding was made. We have not dealt with every single matter that was raised in evidence or the documents. We have only dealt with matters that we found relevant to the issues we have had to determine. No application was made by either side to adjourn this hearing in order to complete disclosure or obtain more documents, so we have dealt with the case on the basis of the documents produced to us and the claim as set out in the list of issues.
24. We make the following findings.

Undisputed Facts

25. We should record as a preliminary finding that a number of relevant facts were not disputed, not challenged or actually agreed by the parties. These were:
 - 25.1. The claimant was employed as a Buyer by the respondent, a company that designs and builds propulsion systems, in its Materials Department from 25 May 2016 to 7 August 2020. She started early conciliation with ACAS on 12 October 2020 and obtained an early conciliation certificate on 11 November 2020. She presented her claim to the Employment Tribunal on 8 December 2020.
 - 25.2. The claimant usually worked 35 hours per week
 - 25.3. It was properly conceded by the respondent that at all times covered by this claim, the claimant met the definition of 'disabled person' because she had the physical impairment of a back condition that had a significant adverse long-term effect on her ability to carry out day-to-day activities.
 - 25.4. The claimant was involved in a road traffic collision in May 2017 that was the root cause of her back condition.

- 25.5. On 28 May 2019, the claimant started a period of medically-certified absence due to her back condition. She remained absent from work until 16 July 2019. On her return, she attended a return to work interview. There was a dispute about who attended the meeting on behalf of the respondent. It was agreed that Simona Beardmore- Baldwin, the respondent's HR Manager attended, but there was a dispute about whether Mr Hale attended.
- 25.6. Stuart Hale was appointed to the role of Principal Technical Buyer on 1 April 2019. During the claimant's absence, Mr Hale became the claimant's direct line manager on 1 June 2019. Mr Hale reported to Gary Fielding, who is the respondent's Materials Manager.
- 25.7. The claimant was referred to Occupational Health on 10 July 2019 [77].
- 25.8. On 19 July 2019, the claimant met Ms Beardmore-Baldwin and Mr Hale.
- 25.9. An Occupational Report dated 23 July 2019 [314-315] was produced that confirmed the claimant's back condition and made recommendations for adjustments that included the provision of a supportive chair.
- 25.10. The claimant began a further period of ill-health absence related to her back condition on 24 July 2019 and returned to work on 29 October 2019. She met Mr Hale for a return to work interview on 30 July 2019 [110].
- 25.11. There were further meetings between Miss Watson and Stuart Hale on 18, 20 and 22 November 2019. Following the meeting on 20 November 2019, the claimant emailed Mr Hale to request an assessment of her workspace by OH [135].
- 25.12. That OH assessment was carried out and a report dated 5 December 2019 was prepared [316-317]. The report recommended a referral to Access to Work (AtW) for an assessment on Miss Watson's workstation and workplace.
- 25.13. Following an assessment on 13 February 2020, on 22 February 2020, AtW wrote to the respondent [165-180] with confirmation that Miss Watson could get support from an AtW grant of just over £1,000, of which the respondent was required to contribute £1,000 plus 20%. On 13 May 2020, the respondent was notified that the special aids and equipment would be delivered.
- 25.14. On 17 March 2020, the claimant and colleagues were required to work from home because of the Covid pandemic.
- 25.15. The claimant was furloughed on 17 April 2020 [199-202]. The period of furlough was extended by a letter dated 22 May 2020 [210-213].
- 25.16. On 23 July 2020, all employees of the respondent were notified of the possibility of redundancies [215-218].
- 25.17. The claimant was notified that her post was at risk of redundancy on 24 July 2020 [220-222]. Miss Watson was placed in a pool of 8 potentially

redundant staff who were all working in buying. The pool included Mr Hale.

25.18. The claimant returned to work on 31 July 2020 following the end of her furlough period and attended her first consultation meeting about redundancy on the same day [242-252]. Miss Watson was given the scoring matrix for redundancies.

25.19. A second consultation meeting was held on 4 August 2020 [274-286].

25.20. The third consultation meeting was held on 7 August 2020 [290-300]. Miss Wilson was advised that she was made redundant with immediate effect [301-304]. 7 August 2020 was the effective date of termination.

26. There was not much dispute about what happened. The dispute between the parties is the interpretation that should be put on the events that were largely agreed.

Points of Dispute

General Points

27. We have focused our attention on the facts in dispute that relate to the issues in the case. Our findings are as follows.

Failure to make reasonable adjustments

28. We find that the claimant's claim was not brought within the time limits set out in section 123 of the EqA and that it would not be just and equitable to extend time to allow the claim to proceed. We make that decision because:

28.1. The claimant made a single claim of failure to make reasonable adjustments: the respondent's failure to provide a supportive chair, which is an auxiliary aid;

28.2. The clock in respect of the claimant's claim started to run when the OH report dated 23 July 2019 [314-315] was produced that confirmed the claimant's back condition and made recommendations for adjustments that included the provision of a supportive chair;

28.3. The claimant pressed for a workplace assessment on 20 November 2019;

28.4. The AtW assessment took place on 13 February 2020;

28.5. We accept the claimant's evidence that she raised the issue of her chair repeatedly to Ms Beardmore-Baldwin;

28.6. The chair (and other aids) were not ready to be delivered until 13 May 2020;

28.7. The claimant never raised a formal or informal complaint or grievance about the failure to provide the chair;

- 28.8. We find that the claimant was fully aware of the need for the chair from July 2019;
- 28.9. We appreciate that the claimant may have been reluctant to raise the failure to provide the chair whilst she remained employed by the respondent;
- 28.10. The claimant's employment ended on 7 August 2020. She did not appeal her dismissal. We therefore find that any reluctance to challenge the respondent's actions had disappeared on 7 August 2020; and
- 28.11. The claimant did not start early conciliation until 12 October 2020 and did not issue these proceedings until 8 December 2020. That date was 17 months after the clock began to run on the claim. We do not find that this allegation was part of a series of connected claims and that it would not be just and equitable to extend time to allow it to proceed. The claim is dismissed.

Discrimination arising from disability

29. We do not find that any of the claimant's claims of discrimination arising from disability succeed on their factual merits. We dealt with these first and did not address the time points. We may well have disallowed some or all the claims for time points, but decided that it was in the interests of justice to deal with the merits as the first point. We appreciate that by doing this, we may have dealt with the claims "back to front", but used our wide discretion to produce what we found to be a just and equitable way of resolving the issues.
30. We find that the claimant's first three allegations can be dealt with together. These concern the allegation that Mr Hale did not speak to the claimant following her return to work on 16 July 2021 (claim 1), did not acknowledge her (claim 2) and did not ask her how she was managing (claim 3).
31. We find that Mr Hale did not attend the return to work interview on 16 July 2019. We make that finding because Mr Hale's oral evidence on the point was less than sure, whilst the claimant's evidence was consistent. We find that the 16 July meeting was between the claimant and Ms Beardmore-Baldwin.
32. We find that Mr Hale did attend the meeting on 19 July 2019 because it was agreed by both sides that he did. It is therefore easy to make the finding that he did speak to the claimant and acknowledged her at that meeting.
33. We find that Mr Hale did not ask the claimant how she was managing on her return, because it was not asserted anywhere that he did. We find that this was not unfavourable treatment arising out of her absence from work. The absence was the 'something' arising from disability. We do not find it plausible that Mr Hale would not ask the claimant how she was because she had been absent; it may have been poor people management, but we cannot find that it was because the claimant had been absent.

34. We find that the claimant's assertion that the whole of the respondent's management changed in its attitude towards her after she returned from ill health absence in July 2019 to be no more than her perception. We found no evidence, other than the claimant's assertions, that the management position had turned against Miss Watson.
35. In respect of claim 4, the way that Ms Beardmore-Baldwin questioned the claimant at the meeting on 19 July, we find that the claimant agreed that there was no issue with Ms Beardmore-Baldwin's conduct at that meeting. Miss Watson tried to correct the claim in her oral evidence to say that she meant to complain about the 16 July meeting, but that was not the claim before us that has been set out since the issue of these proceedings in December 2020.
36. We find that claim 5, which was the allegation that Ms Beardmore-Baldwin had stated that "the company won't waste money" was not an act of discrimination arising from disability. We find that Ms Beardmore-Baldwin's evidence that she had said that the company would have to see what the OH assessment produced before buying a chair for the claimant was internally consistent, consistent with the documents, particularly with the OH assessment itself and consistent with the claimant's oral evidence that it would have been a waste of money for the respondent to have bought the wrong chair before an assessment had been carried out. We agree with Mr Hodge's submission that it was about the context of the conversation.
37. In respect of claim 6, we find that all the staff in the Materials Department were asked to do a wider variety of work. This was not disputed by the claimant. Part of the reason was the long-term absence of two colleagues. Mr Hale gave unchallenged evidence that he had to take on more work. We therefore find that when everyone in the department was asked to take on more work, it cannot have been an act of discrimination arising out of disability to make the same request of the claimant. We also find the claimant's position hard to understand when, in respect of her unfair dismissal claim, she asserts that she could do difficult technical buying work.
38. We find that there is no evidence other than the claimant's assertion, that Mr Hale belittled the claimant in a meeting on Teams in April 2020 (per claim 7). We note that the claimant cannot say when the meeting was. We note that in her ET1 [22], the claimant states that "Stuart Hale continually (sic) belittled me in front of the team", yet this is the only instance cited as a claim. We find that the lack of detail undermines the claimant's credibility and means that the evidence does not show on the balance of probabilities that the claimant's allegation is credible.
39. We find that the claimant's oral evidence that the reason for her dismissal on 7 August 2020 was redundancy completely undermines claim 8, that her dismissal was unfavourable treatment arising from her sickness absences.

Unfair dismissal

40. We find that whilst there were faults in the respondent's redundancy procedure, the claimant's dismissal was fair. We make that finding because:
 - 40.1. We have found that the reason for dismissal was not an act of disability discrimination;

- 40.2. The claimant had no problem with the way that the procedure was conducted;
- 40.3. Miss Watson did, however, have a number of serious concerns about the scoring that was applied to her in the redundancy matrix [252];
- 40.4. We find that there was no procedural fault in the way that the respondent conducted the redundancy process. It informed all employees of the need for redundancies. The claimant did not dispute the need for redundancies. The claimant was specifically advised of the risk to her own position. The claimant had no problem with the pool of potentially redundant employees that she was placed in. There were three consultation meetings at which the claimant had and took the opportunity to make suggestions about her proposed redundancy. The respondent listened to the claimant and Mr Fielding opened up her 2018 appraisal at her request, even though it was outside the timescale of his assessment;
- 40.5. We find that the respondent considered suitable alternative vacancies, but was unable to find any. The claimant accepted that the three vacancies that were available were not in her skill set; which leaves us with the matrix scoring;
- 40.6. We find that the claimant did not produce detailed and cogent evidence that she should have been scored higher than her colleagues in the same pool of potentially redundant employees. Mr Fielding made a decision, which we find to have been in good faith, which resulted in the claimant's dismissal;
- 40.7. We have great empathy for Miss Watson, who had given four years of good service and was never alleged to have been anything other than a good employee. Unfortunately for her, we have found that the decision to dismiss her for the reason for redundancy was reasonable in all the circumstances (including the size and administrative resources of the respondent) and in accordance with equity and the substantial merits of the case.

Applying facts to issues and law

41. We find that the respondent dismissed the claimant. This was never in dispute.
42. The reason for the claimant's dismissal was redundancy. The claimant accepted as much.
43. The decision to dismiss the claimant for the reason for redundancy was reasonable in all the circumstances (including the size and administrative resources of the respondent) and in accordance with equity and the substantial merits of the case.
44. The claimant did not start early conciliation until 12 October 2020 and did not issue these proceedings until 8 December 2020. That date was 17 months after the clock began to run on her claim of failure to make reasonable adjustments. We do not find

that this allegation was part of a series of connected claims and that it would not be just and equitable to extend time to allow it to proceed.

- 45. None of the unfavourable acts alleged by the claimant were because of something arising in consequence of the claimant's disability.
- 46. As we have dismissed all the claimant's claims, we do not need to consider the issues relating to remedy.

Employment Judge Shore
22 September 2022

Sent to the parties on:

10/10/2022

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For the Tribunal Office:

J Moossavi

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