



EMPLOYMENT TRIBUNALS

Claimant: DOLLY NICOLA OSBORNE

Respondent: GENDER GP PTE LIMITED

Heard at: by telephone **On:** 05 JANUARY 2023

Before: Employment Judge McCluggage

Appearances

For the claimant: In person
For the respondent: No appearance

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – rule 21

In absence of a response to the claim being received from the Respondent then pursuant to rule 21(2) of the 2013 Tribunal rules, judgment is entered against the Respondent in respect of the following claims:

1. The claim for a failure to make reasonable adjustments under section 20 of the Equality Act 2010.
2. The claim for discrimination arising from disability under section 15 of the Equality Act 2010.
3. The claim for harassment relating to disability under section 26 of the Equality Act 2010.

The claims thus succeed and the remedy to which the Claimant is entitled will be determined at a Remedy Hearing.

The remedy hearing has been listed as per the separate Case Management order made today.

REASONS

1. I have had regard to:
 - a. The Claim Form;
 - b. The contents of a 134 page bundle prepared by the Claimant in respect of the case management hearing listed for today.
 - c. A 51 paragraph witness statement prepared by the Claimant included within that bundle.
2. The ET1 was received by the tribunal on 20 June 2022.
3. No response to the claim was received by the tribunal from the Respondent.
4. Numerous items of correspondence have been sent to the Respondent at its London office including a letter dated 5 August 2022 noting that no response had been received.
5. The tribunal sent a letter dated 22 June 2022 giving notice of the case management hearing listed for 5 January 2023 to the Respondent's address.
6. In considering the issues, I have had regard to the relevant provisions of the Equality Act 2010, and procedurally to rule 21 of the Tribunal Rules and the 2013 Presidential Guidance on Default judgments. I am satisfied that I have sufficient information on which the claims are based, that the Tribunal has jurisdiction to determine them, and that through the witness statement and other documents in the bundle provided that the claims are properly brought.
7. On the material presented in the bundle including the Claimant's witness statement and taking into account what the Claimant told me I was satisfied that she was disabled within the meaning of the Equality Act 2010 on account of fibromyalgia, degenerative disc disease and psychological issues including Borderline Personality Disorder. She needed to use sticks or a wheelchair, needed assistance with getting dressed, had difficulty with writing with a pen and suffered from insomnia and morning fatigue and brain fog which constituted substantial impairment of day to day activities. These conditions had lasted for more than one year, the Claimant telling me that they went back to 2015.
8. Though the Claimant had signed a contract titled "Independent Contractor Services Agreement", she told me that she considered herself to be a "worker" because she was required to perform personally services for the Respondent and the Respondent was not to be considered a client or customer of the Claimant. The Respondent provided no opposition to this position.

9. On the basis of documentation provided to me the Claimant appears to have been dismissed/had her contract terminated because she had corrected some spelling mistakes in an induction document, introduced herself to work colleagues in “Basecamp” software and cried during the afternoon induction after being reprimanded.
10. The conduct complained of by the Claimant appeared *prima facie* related to the symptoms of her disability. She explained that she was tired due to an unaccustomed early start and hence made misjudgements and was emotional by the afternoon. This led to her dismissal based on the correspondence within the bundle. No justification was given by the Respondent. Therefore, my view was that the section 15 Equality Act claim was appropriate for judgment.
11. I was satisfied that the PCP alleged was applied to the Claimant, caused her substantial disadvantage and that steps had not been taken to remove that disadvantage. The Respondent had provided no material to show that the steps were not reasonable or would not have been successful. Therefore, my view was that the claim for a failure to make reasonable adjustments was appropriate for judgment.
12. In absence of material from the Respondent, I was satisfied that the incidents raised as allegations of harassment by the Claimant *prima facie* violated the Claimant’s dignity and created an intimidating and offensive environment for the Claimant and it was reasonable for the conduct to have that effect. Therefore, my view was that the claim for harassment related to disability was appropriate for judgment.
13. Judgment having been given it was appropriate for the claims to proceed to remedy.

Employment Judge McCluggage
Signed: 6 January 2023