



EMPLOYMENT TRIBUNALS

Claimant

Mr B Lipinski

Respondents

Beacon Communication Services Limited

Employment Judge Dawson

REASONS FOR THE JUDGMENT DATED 1.11.22

JUDGMENT having been sent to the parties and written reasons having been requested in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the following reasons are provided:

1. The request for reasons for the judgment dated 1 November 2022 was made on 9 January 2023. In those circumstances was made outside of the 14 day time limit laid down by rule 62 of the Employment Tribunal Rules of Procedure, nevertheless it is in the interest of justice to provide these reasons.
2. The judgment stated that it was made under rule 21 of the Employment Tribunals Rules of Procedure. The decision was made on paper in the usual way.
3. The claim form was presented on 24 August 2022 and, at box 8.1, stated that the claimant was discriminated on the grounds of disability and that he was claiming other payments. Particulars of Claim were attached. Those particulars were clear and unambiguous and set out
 - a. a claim of discrimination because of something arising from disability, namely that the claimant was dismissed because of his level of sickness absence which was caused by his disability and
 - b. a claim of failure to make reasonable adjustments, setting out a provision criterion or practice that employees were required to

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maintain a good level of attendance, that the claimant was placed at a disadvantage thereby because he was dismissed and that reasonable adjustments would have included providing the claimant with a laptop work from home as he struggled to leave the house due to his anxiety and depression.

4. Notice of the claim was sent to the respondent, at its registered office, on 30 August 2022 stating that a response should be presented by 27 September 2022 and warning that if a response is not submitted a judgment may be issued.
5. No response was presented and on 11 October 2022 a letter was sent to the respondent, at its registered office, setting out that because a response had not been entered a judgment may now be issued.
6. The matter was then referred to me for consideration to be given to entering a default judgment. I considered the available information and I also considered the case of *Limoine v Sharma* UKEAT/0094/19/RN which provides that “the Judge needs to be satisfied, on the information contained in the claim form and any other documents or materials before them, and, in view of the claim being undefended, treating what the party advancing the claim says as undisputed fact, that the factual elements necessary to make good the claim in law are made out.”
7. Having considered the claim form and treating the respondent as accepting what is set out in it, I concluded that the claim form did make good claims of discrimination because of something arising from disability and failure to make reasonable adjustments.
8. The claim form sets out the claimant’s disability arising from anxiety and depression, including struggling with leaving the house.
9. In respect of the claim under section 15 Equality Act 2010, being dismissed was unfavourable treatment, the real reason for dismissal was the level of sickness absence and that arose because of the claimant’s disability. The respondent did not advance any justification defence.
10. In respect of the claim of failure to make reasonable adjustments, there was a criteria of a good level of attendance. The claimant’s disability meant that he was disadvantaged because he could not achieve a good level of attendance. The claimant had established facts from which the tribunal could conclude that if the claimant had been able to work from home that would have avoided the disadvantage. The respondent did not dispute that allowing the claimant to work from home would be a reasonable adjustment and therefore the claim succeeded.
11. It was not possible to determine remedy on the basis of the papers and, therefore, the claim was listed for a remedy hearing.

Employment Judge Dawson
Date: 24 January 2023
Reasons sent to the parties: 06 February 2023
FOR THE TRIBUNAL OFFICE