



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss R O'Donnell

**Respondent:** DHL Supply Chain Ltd

**Heard at:** Birmingham (via Cloud Video Platform)      **On:** 10 February 2023

**Before:** Employment Judge Choudry (sitting alone)

## Appearances

For the claimant: In person

For the respondent: Mr R Lassey (Counsel)

## JUDGMENT

1. The claimant's claim for disability discrimination is dismissed following a withdrawal by the claimant.
2. The claimant's claim for holiday pay and the respondent's counter claim will proceed to hearing on 31 March 2023.

## REASONS

- (1) This has been a remote hearing which has not been objected to by the parties. The form of remote hearing was via cloud video. A face to face hearing was not held because it was not practicable and all issues could be determined in a remote hearing.
- (2) The claimant was employed by the respondent as a Despatch Clerk from 11 September 2010 until 17 March 2021. By a claim form presented on 7 July 2021, following a period of early conciliation from 17 May 2021 to 23 June 2021, the claimant brought complaints of disability discrimination, pregnancy or maternity discrimination, notice pay, holiday pay and other payments. The respondent denied the allegations and sought further particulars of the claims.
- (3) At a preliminary hearing on 14 March 2022 before Employment Judge Woffenden the claimant was given until 11 April 2022 to make an application to amend her claim for disability discrimination as although she had ticked the box to indicate

that she wanted to bring a claim for disability discrimination she had not provided any details of her claim for disability discrimination in the claim for itself (Order 7). Other case management orders were given at the preliminary hearing.

- (4) By an email dated 9 May 2022 the respondent wrote to the Tribunal to make an application to strike out the claim for disability discrimination under rule 37 of the Employment Tribunals (Constitution and Rules of Procedures) Regulations 2013 (“ET Rules”) on the basis that the claimant had not complied with Order 7. In the alternative, the respondent sought an Unless Order pursuant to rule 38 of the ET Rules.
- (5) By a Judgment dated 15 May 2022 the claimant’s claims for maternity discrimination and breach of contract were dismissed following a withdrawal by the claimant.
- (6) By a letter dated 17 May 2022 the Tribunal wrote to the claimant of its own initiative and having considered any representations made by the parties that it was considering striking out the claimant’s complaint of disability discrimination for failure to comply with Order 7. It was noted that the claimant had referred to reasonable adjustments in a Schedule of Loss dated 11 April 2022, but the detail provided was inadequate and there was no application to amend.
- (7) The claimant was given until 4pm on 31 May 2022 to provide any objections in writing or to request a hearing at which any objections could be made. Such objections needed to be accompanied by an application to amend and comprehensive details of the claim in order for the respondent and the Tribunal to understand the claim.
- (8) By an email dated 30 May 2022 indicating that she had taken advice from the Citizens Advice Bureau and was told she had complied with the case management orders and that she did not know what she had done incorrectly. This email did not contain an application to amend nor further particulars of the claim for disability discrimination. The email merely stated that: *“I also ticked the discrimination disability box as I was advised they could of done more to find me alternative position, considering I had worked there at the plant for 13 years.”*
- (9) By an email dated 23 January 2023 the respondents renewed their application for a strike out of the claim for disability discrimination as the claimant had still not complied with Order 7.
- (10) During the course of the hearing the claimant indicated that she did not wish to pursue her claim for disability discrimination and that she had been advised to include a claim for disability discrimination by the Citizens Advice Bureau (CAB). Her initial intention had been to pursue the claim regarding her holiday pay. I asked the claimant whether she wanted a period of 7 days to discuss the matter with the CAB before deciding whether or not she wanted to withdraw her claim for disability discrimination. However, the claimant indicated that she did not need any extra time and wished to withdraw her claim for disability discrimination straightaway.

(11) The claim for disability discrimination was accordingly dismissed on withdrawal.

**Employment Judge Choudry**

10 February 2023