



EMPLOYMENT TRIBUNALS

Claimant: Mrs H Matthews

Respondent: Razors Edge Group Limited (1)

Mr Roberts (Manchester) Limited (2)

BEFORE: Employment Judge Johnson

MEMBERS: Ms D Kelly
Ms A Jackson

UPON APPLICATION made by letter dated **11 April 2023** to reconsider the judgment dated **27 March 2023** under rule 71 of the Employment Tribunals Rules of Procedure 2013, and without a hearing, the Tribunal has considered the first respondent's application (and neither the claimant or the second respondent having responded) and makes the following revised judgment:

RECONSIDERATION JUDGMENT

- (1) The complaint brought under Part-Workers (Protection from Less Favourable Treatment) Regulations 2000 is not well founded and is unsuccessful.
- (2) The complaint of direct sex discrimination contrary to section 13 Equality Act 2010 is not well founded and is unsuccessful.
- (3) The complaint of indirect sex discrimination contrary to section 19 Equality Act 2010 is not well founded and is unsuccessful.
- (4) The complaint of a failure by the respondents to make reasonable adjustments under sections 20 and 21 Equality Act 2010 is well founded and succeeds.

- (5) The claimant was constructively and unfairly dismissed contrary to section 95(1)(c) Employment Rights Act 1996 is well founded and is successful.
- (6) The breach of contract complaint is dismissed upon withdrawal by the claimant on the first day of the final hearing on 21 November 2022.
- (7) The claimant's complaint of unlawful deduction from wages contrary to section 13 Employment Rights Act 1996 is not well founded as insufficient evidence was presented at the final hearing and this complaint is unsuccessful.
- (8) The complaint of unpaid holiday pay contrary to regulation 13 Working Time Regulations 1998 is in principle well founded and is successful but subject to evidence of loss being proved at the remedy hearing.
- (9) The successful complaint of constructive unfair dismissal did not arise from a resignation prompted by the imminent transfer from the first respondent to the second respondent on 6 July 2020. Accordingly, liability for the successful complaints rests solely with the first respondent.
- (10) The quantification of the successful complaints including the determination of the actual holiday pay claimed will proceed to a remedy hearing on a date to be confirmed with a hearing length of 1 day.

REASONS

1. These reasons are provided following the presentation of the application for reconsideration by the first respondent, the Tribunal has reviewed their notes of the final hearing. The judgment dated 27 March 2023 is therefore varied as described above.
2. It is recognised that some confusion took place at the beginning of the final hearing because the list of issues had not been finalised and some discussion was required before the hearing of evidence could begin.
3. A rereading of the Tribunal's notes of the preliminary discussions of the first day of the final hearing records the claimant's withdrawal of the breach of contract/notice pay complaint and the judgment on liability should be that this particular complaint is dismissed.
4. The Tribunal does not accept that there was a formal withdrawal of the holiday pay complaint, and this remained an issue to be determined as part of the list of issues during the final hearing. The first respondent submitted at the conclusion of the hearing (as part of final submissions), that the claimant's entitlement was unclear, but it was hoped that the parties could resolve this matter between themselves. The claimant submitted that there must be statutory annual leave entitlement owing, *'though not much'*. In other words, the holiday pay claim was unresolved at the point the hearing concluded and the Tribunal was entitled to make the findings that it did, but on the basis that any actual entitlement would involve consideration of evidence relating to remedy at that subsequent hearing dealing with the successful complaints.

5. The unlawful deduction from wages complaint has also been reconsidered and the Tribunal finds that it is unsuccessful on the basis that there was insufficient evidence advanced by the claimant during the final hearing to support a positive finding in respect of that complaint in the claimant's favour. Accordingly, the unlawful deduction from wages complaint is unsuccessful.

Employment Judge **Johnson**
1 June 2023

JUDGMENT SENT TO THE PARTIES ON
5 June 2023

FOR THE TRIBUNAL OFFICE