



EMPLOYMENT TRIBUNALS

Claimant: Mr J Wilkes

Respondents: (1) Guardian Industrial (UK) Ltd
(2) Lakeside Construction Ltd

Heard at: Bristol (by video)

On: 5-8 December 2023

Before: Employment Judge Ferguson

Members: Ms C Monaghan
Mr R Spry-Shute

Representation

Claimant: In person

Respondents: Mrs M Phillips, Group Company Manager for the First Respondent & Mr M Phillips, Owner and Director of both Respondents

JUDGMENT

It is the unanimous judgment of the Tribunal that:

1. The correct Respondent to the claim is Guardian Industrial (UK) Limited. The proceedings against Lakeside Construction Limited are dismissed.
2. The complaint of unfavourable treatment because of something arising in consequence of disability is well-founded and succeeds.
3. The complaint of failure to make reasonable adjustments for disability is not well-founded and is dismissed.
4. The following complaint of victimisation is well-founded and succeeds:
 - a. Requiring the Claimant to send daily site diaries for Elmcroft to prove his attendance on days when he had medical appointments.
5. The remaining complaints of victimisation are not well-founded and are dismissed.

6. The complaint that the Claimant's resignation amounted to a discriminatory dismissal pursuant to s.39(7) of the Equality Act 2010 fails and is dismissed.
7. The holiday pay complaint fails and is dismissed.
8. When the proceedings were begun the Respondent was in breach of its duty to provide the Claimant with a written statement of particulars of change pursuant to s.4 of the Employment Rights Act 1996. There are no exceptional circumstances that make an award of an amount equal to two weeks' gross pay unjust or inequitable. It is not just and equitable to make an award of an amount equal to four weeks' gross pay. In accordance with s.38 of the Employment Act 2002 any award of compensation to the Claimant will be increased by two weeks' pay (capped at £571 per week).
9. A three-hour remedy hearing will take place by video at **10am on 20 December 2023**. Instructions for joining the hearing will be sent to the parties in due course.

Employment Judge Ferguson
Date: 8 December 2023

JUDGMENT SENT TO THE PARTIES ON
18 December 2023 By Mr J McCormick

FOR THE TRIBUNAL OFFICE

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

Recording and Transcription

Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>