

EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

and

Respondent

Mr T. Anderson

Morrison Data Services Ltd

Held at: Exeter

On: 4-6 December 2023

Before: Employment Judge Smail

Appearances Claimant: Respondent:

In Person Mr S. Davis, Inhouse Counsel

JUDGMENT

- 1. The Claimant was unfairly dismissed by the Respondent for the following reasons:
 - (a) The Respondent rejected the Claimant's contention that he would recover sufficiently to perform his role within the foreseeable future without seeking up-to-date medical advice in the form of an Occupational Health report. Earlier Occupational Health advice had suggested a sufficient recovery would be made.
 - (b) In breach of its own procedures, the original decision to dismiss was taken by the line manager and not a more senior manager or a senior HR manager.
 - (c) The Claimant, at the time of the original decision to dismiss him, had neither been seen by management nor occupational health in person or even on video. All dealings had been by telephone.
- 2. The dismissal amounted to discrimination arising from disability in breach of section 15 of the Equality Act 2010. The Respondent fails to establish that the dismissal was a proportionate means of achieving a legitimate aim because it rejected the Claimant's contention that he would recover

sufficiently to perform his role within the foreseeable future without seeking up-to-date medical advice in the form of an Occupational Health report. Earlier Occupational Health advice had suggested a sufficient recovery would be made.

- 3. All other claims are dismissed.
- 4. Written Reasons have been asked for and will follow.

Employment Judge Smail 07 December 2023

Judgment sent to the Parties on 03 January 2024

For the Tribunal Office