



EMPLOYMENT TRIBUNALS

Claimant: Mrs Abimbola Adeturinmo
Respondent: Whittington Health NHS Trust

Heard at: Watford **On:** 27 November to 1 December 2023

Before: Employment Judge Dick
Mr M Bhatti OBE
Mr N Boustred

Representation

Claimant: Mr W Brown (solicitor)
Respondent: Mr P Sangha (counsel)

JUDGMENT

The unanimous judgment of the Tribunal is as follows:

1. The complaint of unfair dismissal is well-founded. The claimant was unfairly dismissed.
2. There is a 90 % chance that the claimant would have been fairly dismissed after a fair process in any event. A fair process would have taken a further 8 weeks.
3. The complaint of wrongful dismissal (failure to pay notice pay) is not well founded and is dismissed.
4. All complaints of race discrimination are dismissed upon withdrawal.
5. The complaint of direct disability discrimination is not well-founded and is dismissed.
6. The following complaint of indirect disability discrimination is well-founded and succeeds:
 - a. Proceeding with the capability dismissal process regardless of whether the claimant was able to participate in the process (in particular declining a request to extend the claimant's notice period on the basis that the claimant had already been "processed as a leaver").

7. The remaining complaints of indirect disability discrimination are not well-founded and are dismissed.
8. The following complaints of failure to make reasonable adjustments for disability are well-founded and succeed:
 - a. Declining to delay the capability dismissal process (i.e. declining a request to extend the claimant's notice period on the basis that the claimant had already been "processed as a leaver") until the claimant was able to participate in it
9. The remaining complaints of failure to make reasonable adjustments for disability are not well-founded and are dismissed.
10. Remedy will be determined at a hearing on 16 February 2024 (all day, in person, reserved to the Tribunal as currently constituted).

Employment Judge **Dick**

Date: 7 December 2023

JUDGMENT SENT TO THE PARTIES ON

11/1/2024

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FOR THE TRIBUNAL OFFICE

Note

Reasons for the judgment were given orally at the hearing. Written reasons will not be provided unless a party asked for them at the hearing or a party makes a written request within 14 days of the sending of this written record of the decision.

Public access to employment tribunal decisions

Judgments (apart from judgments under rule 52) 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.