



EMPLOYMENT TRIBUNALS

Claimant: Mr N Copleston

Respondent: Reynolds Training Limited
t/a Reynolds Training Academy

Heard at: Ashford

On: 9th, 10th, 11th July and in chambers on 12th July 2024

Before: Employment Judge Pritchard
Members: Miss N Murphy
Mr C Rogers

Representation

Claimant: In person, assisted by his wife, Mrs C Copleston
Respondent: Ms T Hutchison, counsel

RESERVED JUDGMENT

It is the unanimous decision of the Tribunal that:

- 1 The Respondent did not directly discriminate against the Claimant because of his disability and his claim for direct discrimination under section 13 of the Equality Act 2010 is dismissed.
- 2 The Respondent did not discriminate against the Claimant because of something arising in consequence of his disability and his claim for disability discrimination under section 15 of the Equality Act 2010 is dismissed.

REASONS

1. The Claimant claimed disability discrimination: direct discrimination under section 13 of the Equality Act 2010; and discrimination arising under section 15 of the Act. The Respondent resisted the claims. (The Claimant had previously withdrawn his claim for unfair dismissal as he had less than two years' service).
2. The Tribunal heard evidence from the Claimant and from the Claimant's wife, Mrs Carolyn Copleston. On the Respondent's behalf, the Tribunal heard evidence from Emma Hall (Director); Stephen Turner (Group Director); Gemma Walker (Deputy Principal at the relevant time); and Emma Wilde who is known as Emma Wilson (Administrator). The Tribunal was

referred to a number of documents within a paginated bundle to which further documents were added before the Tribunal heard evidence and yet further documents during the course of the hearing. At the conclusion of the hearing the parties made oral submissions.

3. The Claimant had failed to provide a witness statement in accordance with a case management order but wished to put in evidence his "Summary of Events" as his witness statement. This was permitted by the Tribunal.

Issues

4. At a preliminary hearing held on 2 August 2023, Employment Judge Martin ordered that a further preliminary hearing should take place to determine whether the Claimant was a disabled person at a material time by reason of Amyloidosis.
5. At a further preliminary hearing before Employment Judge Fowell on 13 December 2023, it was determined the Claimant was a disabled person at the time of his dismissal on 16 November 2022.
6. Employment Judge Fowell identified the two potential claims in the case and set out the issues as follows:

Direct discrimination on grounds of disability

- 6.1. Did the company, in dismissing him, treat the Claimant less favourably than it treated or would have treated someone else in the same circumstances apart from his disability.

Discrimination arising from disability

- 6.2. This involves unfavourable treatment because of something arising in consequence of Mr Copleston's disability.
- 6.3. Firstly, can the company show that it did not know that Mr Copleston had a disability, and could not reasonably have been expected to know?
- 6.4. If not, can Mr Copleston prove that he was dismissed because of "something arising" in consequence of his disability, namely his ill health, poor attendance record and/or the likelihood of further absences.
- 6.5. The company does not rely on the argument that dismissal was a proportionate means of achieving a legitimate aim. It maintains that he was not dismissed on health grounds etc. but because of his conduct in various respects, as set out in the Grounds of Resistance.

Remedies

- 6.6. If Mr Copleston wins his claim for discrimination he may be entitled to compensation for loss of earnings and/or
- 6.7. Compensation for injury to feelings
- 6.8. An uplift of up to 25% in respect of any failure to follow the ACAS Code in

relation to his dismissal

6.9. Interest and/or

6.10. A declaration or recommendation.

7. The Respondent provided the Tribunal with a written opening statement in which the issues were repeated in broadly the same terms as those referred to above. The parties agreed they remained the issues in the case.
8. At the commencement of the hearing the parties were informed that the Tribunal would consider the question of liability only at this hearing. If the Claimant were successful, wholly or in part, a further hearing would take place to consider the question of remedy.
9. However, the Tribunal would consider at this hearing any evidence relating to the Claimant's alleged poor performance and behavioural issues which might impact upon any compensation for loss of earnings.

Findings of fact

10. The Respondent is a government funded training provider for learners aged 16 to 18 and 19 plus adults. It employs about 25 employees.
11. The Respondent has an open and all-inclusive culture. Many members of staff identify as part of the LGBTQ plus community and there is a high proportion of women and minority groups.
12. Prior to the commencement of his employment, the Respondent facilitated the Claimant's attendance at an Equality, Diversity and Inclusion conference sponsored by the Education and Training Foundation.
13. In support of his application for employment, the Claimant's profile, as prepared by him but forwarded to the Respondent by the National Skills Agency states:

ADDITIONAL INFORMATION

Interests: Playing various sports such as golf, rugby and cricket...

14. The Claimant was employed by the Respondent as Chief Operations Officer from 10 October 2022. His contract of employment provided for a six-month probationary period during which time his employment could be terminated with one week's notice or payment in lieu.
15. The Claimant has a medical history of, among other things: atrial fibrillation, hypertension, diabetes, TIA and high haemoglobin. Just a few weeks before the commencement of his employment, the Claimant had been referred to the Heart Failure Service following hospital admission with pulmonary oedema. The consultant cardiologist, having reviewed the Claimant's recent hospital admissions with pulmonary oedema, felt he should be seen urgently in cardiology out-patients.
16. In his impact statement provided for the purposes of the preliminary hearing

before Employment Judge Fowell, the Claimant stated, among other things:

I cannot engage in physical work, walk long distances or engage in vigorous physical exercise or this leaves me with a shortage of breath. This means I can no longer play golf, take my dogs on extensive walks and I struggle with general maintenance tasks to my home. I also struggle with travel if there is no car available.

17. Notwithstanding his health problems, and having had the opportunity to do so on an application form, the Claimant declined to disclose his disability to the Respondent during recruitment via the agency or at interview.

18. On Saturday 15 October 2022, the Claimant was admitted to hospital with a one-day history of shortness of breath, palpitations, cough and worsening ankle swelling. This followed previous similar episodes.

19. On Sunday 16 October 2022, while he was in hospital, the Claimant sent a text message to Emma Hall:

Hi Emma – hope you are having a good weekend – not sure if I told you but I have a couple of days of tests at Medway hospital tomorrow – staying in Monday night. Just diabetes stuff no dramas – hope this is ok?

20. On Sunday 23 October 2022, the Claimant sent a further text message to Emma Hall:

Hi Emma, quick update – finally having my angiogram tomorrow – have been in this hospital for 7 days and there is nothing wrong with me!! Madness. So embarrassed to start with Reynolds like this – I think tomorrow will be a write off as not sure when going down but am planning to be in Tuesday but will try and phone you to confirm. Thank you so much for your patience and understanding.

21. On Tuesday 25 October 2022, the Claimant sent another text message to Emma Hall:

Morning Emma – finally getting surgery today! I will keep you updated but will be in Monday.

22. While still in hospital on 26 October 2022, the Claimant forwarded to his wife a number of emails containing the details of enquiries received by the Respondent from prospective students.

23. The Claimant was discharged from hospital on Saturday 29 October 2022. The Electronic Discharge Notification shows:

Diagnoses: Decompensated heart failure with reduced ejection fraction

24. The Claimant returned to work on Monday 31 October 2022.

25. On 16 November 2022, Emma Hall told the Claimant over the telephone that he was dismissed with one week's notice and placed him on garden leave, thus making his the termination of his employment effective on 23 November 2022.

26. On the same day, Emma Hall sent an email to the Claimant:

Further to our conversation today I confirm your one week's notice.

27. On 20 November 2022, the Claimant sent an email to Emma Hall:

I have now had the opportunity to reflect on our conversation last week and the termination of my contract, there are significant problems at the college - in particular contract performance, financial management and the remote management of both Sale and Birmingham, As well as the new Chef School (where there has been significant capital investment).

These issues have directly led to the clearly chronic cash-flow that are affecting not only the college but the entire group.

But underneath these issues there are good people doing great work and a solid business with a sound asset base.

I never took this job for the money Emma, but to make a difference - and to that end I remain committed to solving the problems and putting the college - and the group - on a sound financial footing.

To that end I would like to make a proposal to you. We could look at the current salary and reduce and change the structure to something more performance based. There are no quick fixes here but a change to a much smaller basic salary and a long term bonus/share options may suit the current situation better??

Underneath everything there are good people doing some great work and I would love to continue to be part of that.

Let me know your thought please?? I feel I have not had the opportunity to make the difference yet, and I very much want to

28. Emma Hall replied by email dated 24 November 2022:

I am grateful for the offer of you reducing your salary, however I still feel that given your health issues the fit is not right for the company. I wish you all the best and hope you find time to rest and recover fully.

29. The facts set out above were not in dispute by the parties.

30. However, there was a stark contradiction in the parties' evidence about other matters.

31. The Respondent maintained that there were significant matters of concern with the Claimant's conduct and behaviour in that he:

31.1. referred to a member of staff as "coloured";

31.2. stated there were only two genders after he was made aware there were both staff and students in the room who identified as non-binary;

- 31.3. on many occasions addressed female staff as “darling” or “love” making them feel uncomfortable;
 - 31.4. hit Emma Wilson on the arm which caused her pain and left a mark;
 - 31.5. referred to a non-binary member of staff as a “snotty bitch” and said “I’ll soon have her gone”;
 - 31.6. called a member of staff “fella” in a meeting;
 - 31.7. would arrive late for work and leave early;
 - 31.8. referred the Respondent’s Chef Academy Patron as a “fat old bird”; and
 - 31.9. generally used misogynistic language, was rude and offensive.
32. In evidence, apart from conceding that he might have occasionally addressed females as “love” or “darling”, the Claimant flatly denied that he was responsible for the behaviour alleged. Mrs Copleston spoke of the Claimant’s behaviour when they worked together in a former successful business and questioned why the Claimant would behave so differently when employed by the Respondent. As far as the Claimant was concerned, the Respondent had fabricated the allegations and its witnesses had colluded by reasons of loyalty to Emma Hall.
33. There was also conflicting evidence relating to the emails containing details of prospective students that the Claimant had forwarded to his wife when he was in hospital. According to the Claimant, he had telephoned Emma Hall and obtained her permission to forward the emails to his wife so that she could contact the students on the Respondent’s behalf. Mrs Copleston told the Tribunal she was with her husband at the hospital when he made the telephone call. Emma Hall told the Tribunal that she received no such telephone call, and that she had not given permission.
34. Similarly, there was conflicting evidence about the Claimant’s return to work. Emma Hall said she conducted a return to work interview with the Claimant and had agreed with his request to work five hours a day for two weeks with flexible remote working while recovering from the stent procedure. The Claimant told the Tribunal that although he spoke to Emma Hall upon his return, there was no return to work meeting and that no adjustments were made to accommodate his return.
35. Yet further conflicts in evidence related to the circumstances surrounding the termination of the Claimant’s employment. According to the Claimant, he received a short telephone call from Emma Hall during the afternoon of 16 November 2022 to say she had been to the bank and, as she could no longer afford his current position, his employment was being terminated with one week’s notice. The Claimant referred to telephone records showing a call received at 16.02 on 16 November 2022 lasting 5 minutes 58 seconds. According to Emma Hall and Stephen Turner, the Claimant had been informed that a meeting would take place on 16 November 2022 and, because the Claimant had emailed saying he had car problems and would be working from

home, the meeting took place at 10.00 am by telephone, Stephen Turner being able to participate by way of speakerphone in Emma Hall's office. Emma Hall said she had written an agenda for the meeting setting out the Respondent's concerns which were discussed with the Claimant who became defensive and angry. According to the Respondent, the Claimant was informed at the end of the meeting that by reason of his conduct he was not suitable for the position of COO and his employment was being terminated; and there was no mention of any financial difficulties which, in any event, did not exist. The Claimant denied that he had been informed that there was to be a meeting, denied that he was aware of any of the allegations, and denied that any such meeting took place.

36. The Tribunal considers the conflicting evidence below.
37. The Tribunal found the Respondent's witnesses to be wholly credible. They did not seek to elaborate about the Claimant's behaviour or the extent of their knowledge about it as might be the case if they were giving false evidence. Their evidence remained consistent throughout. Having questioned them, the Tribunal is satisfied that they did not collude to give false evidence as alleged by the Claimant.
38. By contrast, the Claimant's evidence was, in parts, inconsistent. He told the Tribunal that when he was initially informed of his dismissal for financial reasons he was "entirely happy" with it; he said he had been in business before and understood the situation. That contrasts with his text message to Stephen Turner the following day saying he was "more than pissed off" in reference to his dismissal.
39. The Claimant partly resiled from his initial blanket denial of all alleged wrongdoing and later accepted he might have addressed women as "love" and "darling" and all also that he might have referred to there being two genders.
40. The Claimant's initial evidence that he felt perfectly fit and healthy when he was at work was later qualified when he said that because of his disability he would not have been able to walk quickly towards Emma Wilson to commit the alleged assault.
41. The Tribunal has had regard to the documents in the bundle, some of which were adduced during the course of the hearing, (the parties having recalled witnesses to give evidence and be questioned about those documents).
42. The Respondent's handwritten notes are not sophisticated or embroidered as might be the case had they been prepared in order to rebut the Claimant's evidence. The Respondent's explanation for the failure to produce these documents at an earlier stage in proceedings when not legally represented, namely that they had not been typed up and not thought to be in an appropriate format for legal proceedings, although incorrect, was reasonably understandable. The Tribunal does not accept that the manuscript notes adduced by the Respondent were fabricated as the Claimant asserted.
43. The Claimant accepted that, having been shown the original document contained in a notebook, Stephen Turner's manuscript note appeared to be genuine. The Claimant suggested it must have been prepared in anticipation of a meeting, but maintained that no meeting took place in the morning of 16

November 2022 and that the matters referred to in the note were not discussed at any stage.

44. The manuscript notes of both Emma Hall and Stephen Turner support their evidence that a meeting took place on 16 November 2022 with the Claimant, issues relating to his alleged behaviour and conduct discussed, and that he was dismissed at the end of the meeting.
45. A WhatsApp message dated 2 November 2022 from Gemma Walker to the Respondent's Program Manager for Performing Arts shows that she was "pretty sure" that in the EDI meeting the Claimant had called someone "coloured" and talked about two genders, male and female. This too supports the Respondent's evidence.
46. The Tribunal accepts the Respondent's evidence that the incidents about the Claimant's behaviour were reported at the time they were said to have taken place or shortly afterwards. Some of the documents support this.
47. Emma Wilson's evidence that the Claimant had struck her on the arm was supported by Stephen Turner who confirmed that Emma Wilson had reported it to him and showed him the mark on her arm.
48. Notwithstanding the Tribunal informing the Claimant that the Tribunal was likely to accept Emma Wilson's evidence if not challenged, the Claimant nevertheless declined to question her.
49. The telephone records adduced by the Claimant do not assist his contention that there was no telephone meeting on the morning of 16 November 2022. Not only are the callers' numbers not shown on the document, at the time the Respondent used the Horizon system for free internet telephone calls which would not be recorded in such a document.
50. In the Tribunal's view, it is unlikely that Emma Hall would have given permission to the Claimant for his wife, who, it was thought, worked for a competitor, to have contacted prospective students. In any event, Emma Hall's evidence was credible and convincing that she did not give permission.
51. It is likely, in the Tribunal's view, that the Claimant would have queried why he had received wages for his last period of employment which did not reflect work at full time hours had he not requested to work reduced hours and for it to have been granted.
52. The Tribunal finds it more likely than not that the Respondent's version of events is correct: the Claimant returned to work from sick leave and hospital admission on a reduced hours flexible basis which was agreed at a return to work meeting; he hit a member of staff on the arm which left a mark; he displayed unprofessional and inappropriate behaviour while working in a senior position; he was dismissed at the end of a telephone meeting on the morning of 16 November 2022 when his conduct was discussed.

Applicable law

Direct discrimination

53. Section 39(2)(c) of the Equality Act 2010 provides that an employer must not discriminate against an employee of his by dismissing him.
54. Section 13 of the Equality Act 2010 sets out the legal test for direct discrimination. A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.
55. For the purposes of direct discrimination, section 23 of the Equality Act 2010 provides that on a comparison of cases there must be no material difference between the circumstances relating to each case. The circumstances relating to a case include a person's abilities if on a comparison for the purposes of section 13, the protected characteristic is disability.
56. The House of Lords has considered the test to be applied when determining whether a person discriminated "because of" a protected characteristic in a case of direct discrimination. In some cases, the reason for the treatment is inherent in the act itself: see James v Eastleigh Borough Council [1990] IRLR 572.
57. If the act is not inherently discriminatory, as in this case, the Tribunal must look for the operative or effective cause. This requires consideration of why the alleged discriminator acted as he did. Although his motive will be irrelevant, the Tribunal must consider what consciously or unconsciously was his reason? This is a subjective test and is a question of fact. See Nagarajan v London Regional Transport 1999 1 AC 502.
58. Although lack of knowledge is not referred to in the legislation, an employer may be able to successfully defend a direct discrimination claim if it can show that it was genuinely unaware of the claimant's protected characteristic. The Respondent referred the Tribunal to Patel v Lloyds Pharmacy Ltd UKEAT/0418/12 in which it held that the tribunal was right to strike out a case of direct disability discrimination where there was no evidence that interviewers and decision makers who decided to offer employment to the claimant had any knowledge, or could be imputed with knowledge, of his disability.

Discrimination arising from disability

59. Section 15(1) of the Equality Act 2010 provides that a person (A) discriminates against a disabled person (B) if A treats B unfavourably because of something arising in consequence of B's disability and A cannot show that the treatment is a proportionate means of achieving a legitimate aim.
60. Subsection (1) does not apply if A shows that A did not know, and could not reasonably have been expected to know, that B had the disability.
61. The Tribunal must take into account any part of the Code of Practice on Employment (2011) issued by the Equality and Human Rights Commission that appears to them relevant to any questions arising in proceedings. At paragraph 5.15 the Code states:

An employer must do all they can reasonably be expected to do to find out if a worker has a disability. What is reasonable will depend on the circumstances. This is an objective assessment. ...

62. The Respondent referred the Tribunal to A Ltd v Z [2020] ICR 199 in which it was stated that the tribunal had erred by failing to consider what the employer might reasonably have been expected to know after making enquiries into an employee's ill health. In that case, it was found that even if enquiries had been made, the employee would have continued to hide her disability and therefore the employer could not be said to have had the necessary constructive knowledge of her disability.

63. Counsel referred the Tribunal to a Pnaiser v NHS England [2016] IRLR 170 in which the Employment Appeal Tribunal summarised the proper approach the Tribunal must take when considering a claim under section 15:

63.1. the tribunal must identify whether there was unfavourable treatment and by whom;

63.2. it had to determine what caused the treatment. The focus is on the reason in the mind of the alleged discriminator, and an examination of the conscious or unconscious thought processes of that person might be required;

63.3. the motive of the alleged discriminator in acting as he did is irrelevant;

63.4. the tribunal must determine whether the reason was "something arising in consequence of the claimant's disability", which could describe a range of causal links;

63.5. that stage of the causation test involved an objective question and did not depend on the thought processes of the alleged discriminator;

63.6. the knowledge required was of the disability; it did not extend to a requirement of knowledge that the "something" leading to the unfavourable treatment was a consequence of the disability

64. It does not matter precisely in which order these questions are addressed. Depending on the facts, a tribunal might ask why A treated B in the unfavourable way alleged in order to answer the question whether it was because of 'something arising in consequence of the claimant's disability'. Alternatively, it might ask whether the disability has a particular consequence for a claimant that leads to 'something' that caused the unfavourable treatment.

The burden of proof

65. Section 136 of the Equality Act 2010 sets out the burden of proof that applies in discrimination cases. Subsection (2) provides that if there are facts from which the Tribunal could decide, in the absence of any other explanation, that person (A) has contravened the provisions concerned, the Tribunal must hold that the contravention occurred. However, subsection (2) does not apply if A shows that A did not contravene the provision.

66. However, the burden of proof does not shift to the employer simply on the Claimant establishing a difference in status and a difference in treatment. Those bare facts only indicate a possibility of discrimination. "Could conclude" must mean that a reasonable Tribunal could properly conclude from all the

evidence before it; see Madarassy v Nomura International [2007] IRLR 246. As stated in Madarassy, “the bare facts of a difference in status and a difference in treatment only indicate a possibility of discrimination. They are not, without more, sufficient material from which a Tribunal could conclude that, on the balance of probabilities, the respondent had committed an unlawful act of discrimination”.

67. If the Claimant does not prove such facts, his or her claim will fail.
68. If, on the other hand, the Claimant does prove on the balance of probabilities facts from which the Tribunal could conclude, in the absence of an adequate explanation, that the Respondent has committed the act of discrimination, unless the Respondent is able to prove on the balance of probabilities that the treatment of the Claimant was in no sense whatsoever because of his or her protected characteristic, then the Claimant will succeed. That explanation must be adequate, which as the courts have frequently had cause to say does not mean that it should be reasonable or sensible but simply that it must be sufficient to satisfy the tribunal that the reason had nothing to do with the protected characteristic in question: see Glasgow City Council v Zafar [1998] ICR 120 and Bahl v The Law Society [2004] IRLR 799.
69. In Laing v Manchester City Council [2006] ICR 1519, the EAT stated, among other things, that:

“No doubt in most cases it will be sensible for a Tribunal formally to analyse a case by reference to two stages. But it is not obligatory on them formally to go through each step in each case... An example where it might be sensible for a Tribunal to go straight to the second stage is where the employee is seeking to compare his treatment with a hypothetical employee. In such cases the question whether there is such a comparator – whether there is a prima facie case – is in practice often inextricably linked to the issue of what is the explanation for the treatment, as Lord Nicholls pointed out in Shamoon ... it must surely not be inappropriate for a Tribunal in such cases to go straight to the second stage. ... The focus of the Tribunal’s analysis must at all times be the question of whether or not they can properly infer race discrimination. If they are satisfied that the reason given by the employer is genuine one and does not disclose either conscious or unconscious racial discrimination, then that is the end of the matter. It is not improper for a Tribunal to say, in effect, “there is a nice question as to whether or not the burden has shifted, but we are satisfied here that, even if it has, the employer has given a fully adequate explanation as to why he behaved as he did and it has nothing to do with race””

Conclusion

70. Counsel submitted that the Respondent lacked the required knowledge of the Claimant’s disability, both actual knowledge and imputed/constructive knowledge. She pointed to the difficulty this Tribunal faced in identifying the impairment from which Employment Judge Fowell found the Claimant suffered since the Judge had not specified the nature of the impairment in his judgment. According to Emma Hall, who attended the preliminary hearing, Employment Judge Fowell found that the Claimant had an unrelated lung condition which

was a disability, not a heart problem amounting to a disability.

71. In reaching its conclusion in this case, the Tribunal finds no need to resolve the question of knowledge, nor the precise nature of the disability impairment. Rather, the Tribunal assumes, without reaching any conclusion on the issue, that the Respondent had the required knowledge of the Claimant's disability.
72. The Respondent dismissed the Claimant and thus detrimental treatment and unfavourable treatment has been established.
73. The Tribunal turns to the reason why the Respondent dismissed the Claimant.
74. The Claimant places reliance on two emails: his own email of 20 November 2022 and Emma Hall's reply of 24 November 2022.
75. The Claimant wishes to persuade the Tribunal that he wrote his email in such terms because Emma Hall had told him that his dismissal was for financial reasons. The Respondent suggests that the Claimant's email had also been sent to the recruitment agency as a face-saving measure.
76. Regardless of the reason why the Claimant wrote his email as he did, the Tribunal finds on the balance of probabilities that Emma Hall had informed the Claimant at the end of the meeting on 16 November 2022 that the Claimant was being dismissed because of his unsuitability and his employment being terminated due to his failure to complete satisfactorily his probation period. The Tribunal finds that the Respondent did not have cash flow difficulties and notes that a replacement COO was appointed fairly shortly after the Claimant's dismissal; this would have been unlikely had the Respondent been suffering from financial problems. This supports the Tribunal's finding in this regard.
77. The Tribunal has considered very carefully why Emma Hall replied to the Claimant as she did. The question for the Tribunal is whether it reflects, in any way, the true reason for her dismissal of the Claimant.
78. Emma Hall told the Tribunal that she had discussed with the Claimant at the end of the meeting of 16 November 2022 that it was preferable for his employment to be terminated under the probation provisions rather than him to face disciplinary proceedings in relation to a number of allegations which included an alleged assault. The Tribunal accepts Emma Hall's clear evidence in this regard. Emma Hall accepted that the wording of her email of 24 November 2022 was regrettable and open to interpretation. She sought to explain that it was her attempt to show kindness to the Claimant. There was no evidence, despite the Claimant's assertion, that Emma Hall's email was sent to the Claimant to explain the reason for his dismissal.
79. The question for the Tribunal is why Emma Hall dismissed the Claimant. Although her motive will be irrelevant, the Tribunal must consider what consciously or unconsciously was her reason.
80. The Tribunal has had regard to the totality of the evidence in the case, including Emma Hall's email of the 24 November 2022.
81. Weighing and balancing all the evidence before it, the Tribunal concludes that Emma Hall dismissed the Claimant for the reasons she stated at the conclusion

of the meeting of 16 November 2022, namely his unsuitability by reason of his conduct and behaviour.

82. That reason was in no sense whatsoever because of the Claimant's disability.

83. Nor was it because of what was claimed to be something arising in consequence of the Claimant's disability: ill health, poor attendance record and/or the likelihood of further absences - about which scant, if any, evidence was adduced.

84. Given the Tribunal's conclusions, no other issues in the case fall for consideration.

85. Accordingly, the Claimant's claims are dismissed.

Note

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.

Employment Judge Pritchard

Date 12 July 2024