



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

and

Respondent

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Met Office

RECORD OF A PRELIMINARY HEARING

Held at: Exeter by CVP Audio

On: 14 February 2025

Before: Employment Judge Smail

Appearances

Claimant: In Person

Respondent: Miss E. Misra KC

REASONS FOR STAY ORDER OF 14 FEBRUARY 2025 AND REASONS FOR REFUSAL TO RECUSE

1. On 14 February 2025 I ordered that the present and any future claims brought by the Claimant against the Respondent are stayed pending an assessment of her capacity at this time. The basis for this was that the Claimant became repeatedly very upset at the hearing. She made multiple unlikely claims that the Respondent was intent on doing her harm. She made multiple references to an intention to commit suicide.

Background

2. The hearing was intended to give directions for a remedy hearing following the Claimant establishing liability for disability discrimination at a hearing in September 2021, Employment Judge Housego and Members. Directions were also sought in respect of fresh claims of disability discrimination, including whether to consolidate all outstanding matters.

3. The Claimant has complex PTSD and depression. These are admitted disabilities. She was a trainee meteorologist at the Respondent between November 2018 and May 2020 before being dismissed without completing her training. She had come from Australia for the role. The Tribunal found that it was disability discrimination to dismiss her before giving her opportunities to retake tests. She had less than 2 years' service, so disability discrimination was the only claim available; she was not entitled to claim unfair dismissal.
4. The Claimant seeks reinstatement/redeployment as a recommendation in the remedy claim. The Tribunal cannot order this as a remedy for unfair dismissal because the Claimant may not claim unfair dismissal. There would be no obligation on the Respondent to comply with a recommendation. It might impact on the amount of compensation if the Respondent refused to take the Claimant back.
5. However, In November 2021, following the Judgment issued by the Employment Tribunal in the Claimant's First Claim in relation to liability, the Respondent voluntarily proposed a reinstatement process to support the Claimant back to her role as Trainee Operational Meteorologist and support her through her assessment to qualify as an Operational Meteorologist, on the conditions that 1) the Claimant obtain security clearance from the United Kingdom Security Vetting to allow her to continue working with the Met Office and 2) the Claimant undertook an assessment by occupational health to ensure that she was fit to return to work and to advise on any adjustments to support the Claimant's return to work.
6. However, it has withdrawn this voluntary process because of occupational health advice. It has said it would not progress any further job applications from the Claimant. The Claimant argues this is further disability discrimination and has brought fresh claims arguing this.
7. The Respondent maintains in a Response to the new claims that on or after 16 September 2022, the Claimant's representative provided, a copy of the occupational health report with a considerable amount of the report redacted. From the passages that were unredacted, the report stated that although the Claimant had the intellectual and practical ability to carry out ordinary day to day activities, there was a concern that a return to employment with the Respondent was likely to result in the Claimant *"quickly feeling overwhelmed, to the point of despair, leading to further serious mental health crises complicated by severe risk of self-harm/suicidal attempts"* and that Claimant had *"major difficulty to cope emotionally with ordinary employment-related pressures and demands, to the point of triggering her mental health collapse"*.
8. On 2 August 2023 Employment Judge Housego stayed the proceedings pending a psychiatric assessment. The Claimant was represented pro bono by Mischcon de Reya LLP, solicitors. Ryan Anderson of Counsel, who had

appeared previously for the Claimant, was also in attendance. By reason of the medical reports neither felt able to represent her (the medical reports being to the effect that her mental health meant that she was not able to give instructions), and Mr Anderson attended the hearing to assist the Tribunal.

9. On 9 January 2024, acting on his own motion, Employment Judge Housego set aside the stay order of 2 August 2023. He disagreed with the analysis of 2 psychiatric reports suggesting the Claimant did not have capacity.
10. The Respondent's solicitors questioned the wisdom of this change in position. They and their client had experience of the Claimant's expressing an intention to self-harm.
11. Employment Judge Housego has now retired. In a directions hearing before Regional Employment Judge Pirani, the Respondent indicated it was willing to make an interim payment of £20,000 so that the Claimant could fund solicitors. The Claimant has not taken that offer up. The only reason she gave to me was that it would interfere with her entitlement to claim benefits. However, if the Respondent paid the Claimant's solicitors directly, would that not deal with that problem?

14 February 2025 Hearing

12. The matter then came before me on 14 February 2025. The Respondent maintained the position that there needed to be a stay. I explored whether that was a tactical position adopted by the Respondent to avoid a remedy hearing and orders of compensation. The Respondent, by their Counsel, took great objection to that enquiry. Ultimately, I could see they were right to take objection.
13. Having started speaking lucidly, the Claimant's demeanour changed. She became repeatedly very upset at the hearing. She made multiple unlikely claims that the Respondent was intent on doing her harm. She made multiple references to an intention to commit suicide. The experience of the hearing was harrowing for all concerned. I took the view that her capacity to litigate was in question and hence I made the orders I did.
14. I also arranged for the Tribunal's safeguarding officer to make contact with the Claimant's GP to share the suicide threats in the hope that whatever necessary medical steps might be taken.

Subsequent Recusal Application dated 4 April 2025

15. The Claimant suggests I failed to take into account the distress that further delay would occur to her and I wrongly questioned whether the Respondent was intent on causing her harm.
16. I went into the hearing fully intent on giving directions to a hearing to bring this litigation to an end. The Claimant's demeanour prevented that from happening. The process simply cannot progress if one party is repeating

threats to commit suicide and misdescribing the other's position as one intent on causing her harm, all at the same time as becoming very upset. The Respondent, in the circumstances described in the Occupational Health Report above, is entitled to argue that a return to work is not practicable. That contention can otherwise be examined in Tribunal. The Respondent can argue that position without it being an intent to cause harm to the Claimant. Apparently genuine concern for the Claimant's well-being was expressed by the Respondent, also.

17. I remain willing to ensure that these claims come to their end. The Claimant's capacity needs to be established first, in my Judgment. If, and only if, she needs a litigation friend, we will do our best to find one. I decline to recuse myself.
18. The Employment Appeal Tribunal is now seised with the matter. We must await their rulings.

Employment Judge Smail
12 May 2025
South West Region

Reasons sent to the parties on
14 May 2025 By Mr J McCormick

For the Tribunal Office