



EMPLOYMENT TRIBUNALS

Claimant: Ms Adeline Willis
Respondent: National Westminster Bank PLC

Heard at London Central (by CVP)
On: 24 and 25/6/2025
Before: Employment Judge Mr J S Burns

Representation

Claimant: in person
Respondent: Mr D Hay KC

JUDGMENT

The victimization claim is dismissed

REASONS

1. This was a claim for alleged victimization contrary to section 27 Equality Act 2010 ("EA"). The documents were in a bundle of 283 pages. Three further documents were produced by the Respondent during the hearing. I heard evidence from the Claimant and then from the Respondent's witnesses Ms V Rafter, a Talent Acquisition Consultant, and then from Ms F Morris, Head of Service Delivery and Operational Resilience.

Relevant Law

2. Victimisation is defined in section 27 of the EA and it occurs where the victimiser subjects another to detriment because the other has done a protected act or the victimiser believes the other has done or may do a protected act. A protected act is defined to include bringing proceedings under the EA or giving evidence in such proceedings or doing anything in relation to the Act or alleging a breach of the Act.
3. Section 136 provides that if there are facts from which a court could decide, in the absence of any other explanation, that a person has contravened a provision under the EA, the court must hold that the contravention occurred, unless the person shows that he did not contravene the provision.

Findings of fact

4. The Claimant was previously employed by the Respondent, a retail bank. She was the Respondent's Head of Operational Continuity in Resolution, from 4/3/2019 until 4/4/20. She lodged ET proceedings in relation to that employment period in case 2205821/2020, claiming disability discrimination, which claim ("the former claim") was successful. The liability judgment was issued in 2022 and the remedy judgment/s following hearings in April

and May 2023. The Respondent's employees Mary Pragnell and Lucinda Lambourne were two protagonists mentioned in the liability judgment.

5. The instant proceedings (6009474 2024) relate to the Respondent's recruitment process for a new role called "Operational Resilience Lead". The role required the successful applicant to lead a team of subject matter experts in relation to Operational Resilience ("OR") whose work involves helping the Bank to recover from operational disruptions.
6. The Claimant claims that she was not called to interview for that role because of her former claim.
7. Ms Morris described the regulatory background to the recruitment process as follows: *"The PRA (Prudential Regulation Authority) and FCA (Financial Conduct Authority) issued regulations on Operational Resilience in March 2021 (SS1/21 and PS21/3) ("the Rules"), which came with a series of steps that the Bank needed to undertake in advance of a compliance date of March 2025. ...The Rules are challenging and complex. The objective of the Rules is to ensure that firms are able to respond effectively to a range of severe but plausible disruptive events such as cyber breaches or mobile banking services not working, and, in doing so, prevent intolerable harm to customers, the market, the firm and to UK Financial StabilityThe hiring need came at a critical time in the process of the implementation of the requirements of the Rules. This was because we were just over a year away from the deadline by which we needed to be compliant (March 2025). ...My absolute "must have" requirement was to hire someone that had strong experience of implementing the Rules in the UK"*
8. On 11/3/24 the Claimant, whose CV was advertised on Linked-In, was contacted by Ms Rafter.
9. At that stage the written job-description was still being drafted for purposes of being given to those who decided to make a formal application. The document was finalised on 14/3/24 but not given to the Claimant.
10. On 14/3/24 there was a telephone discussion between the Claimant and Ms Rafter. The Claimant did not want to make a formal application but wanted her CV to be passed on to Ms Morris to get feedback to see if it was worth her making an application.
11. There was a dispute between the parties as to whether the requirement for applicants for the role to have *"strong experience of implementing the Rules in the UK"* was genuine and made clear to the Claimant in March 2024. I resolve this dispute in favour of the Respondent for the following main reasons:

- a. A new recruit was needed to fill a position occupied by Tracey Mitchell, the existing OR Lead, who had considerable experience and knowledge of the UK implementation process, but who was “moving on”;
 - b. As described by Ms Morris, the hiring need came at a critical time for the Respondent in the implementation of the requirements of the UK Rules;
 - c. Before the recruitment process started, a Respondent document relating to the role was produced entitled “*Talent Sourcing...contracting call template*” which contained a section entitled “*Skills and experience*”. This included the following: “*They absolutely need to have a base a of digital technologies - good understanding of the technologies that this role underpins – UK regulations*”.
 - d. The job description made no express reference to knowledge of specifically UK regulations but included in its opening paragraphs references to the implementation process described by Ms Morris as quoted above as follows “*In this key role, you’ll be leading and developing a team of specialists to support the implementation of the NatWest Group Operational Resilience framework and supporting standards and controls across the Bank*”; and “*You’ll effectively partner with stakeholders across the bank’s franchise and functions in support of the implementation, embedding and improvement of operational resilience and service stability strategy, policies and framework*”; and
 - e. The Claimant made a contemporaneous manuscript note of her conversation with Ms Rafter on 14/3/24, which note includes the following “*Good understanding UK reg*”.
12. There was also a dispute of fact between the Claimant who contended that Ms Rafter during the conversation on 14/3/24 had promised her an interview; and Ms Rafter who stated that she had made no such promise. I prefer Ms Rafter’s evidence about this because there is no reference to any such promise in the Claimant’s manuscript note, and it is clear that it was Ms Morris and not Ms Rafter (who did not have any OR expertise) who was to choose which candidates to interview, and it is unlikely that Ms Rafter as an experienced recruiter, would have promised something which it was not in her power to deliver.
13. I do accept however that Ms Rafter expressed some enthusiasm for the Claimant and to some extent built up her hopes that Ms Morris would be interested in her CV.

14. During the conversation on 14/3/24 there was a brief reference to the fact that the Claimant had previously worked for the Respondent, and that during that time, in 2018, had had some contact with Ms Morris. It is agreed however that there was no direct reference to the Claimant's former claim.
15. I accept Ms Rafter's evidence that she was unaware of the former claim at all material times and that she learnt of it only after the instant proceedings were issued.
16. Following the conversation on 14/3/24, Ms Rafter sent the Claimant's CV to Ms Morris under cover of an email which started "*Morning Fiona, I have spoken with this candidate, she is ex Nat West and said to say hello to you*".
17. Shortly after receiving Ms Rafter's email, Ms Morris messaged Tracey Mitchell asking "*Do you know and (sic) Adeline Willis?*" I find that this was a mistyping of the question "*Do you know any Adeline Willis?*". The question was prompted by the "*said to say hello to you*" message sent by the Claimant via Ms Rafter to Ms Morris. Ms Mitchell replied "*Nope*" to Ms Morris.
18. Shortly after the conversation on 14/3/24, the Claimant contacted a friend still employed by the Respondent and asked her look up Ms Morris in the organisation directory and to check whether she was a direct colleague of either Mary Pragnell or Lucinda Lambourne, (the protagonists in the former claim) The Claimant wanted to ensure that the role discussed on 14/3/24 was not in the same area that they were working in. The friend reported back that they were not in Ms Morris's team.
19. The Claimant's CV which had been sent to Ms Morris indicated she was an experienced change agent who had worked in a range of regulatory fields, and that in her most recent employment with the Respondent she had led a programme of work to deliver OCiR (Operational Continuity in Resolution), which is different from OR. (OCiR is the responsibility of a separate team within the Respondent which Ms Morris is not part of).
20. The Claimant's CV indicated that she had two periods of employment in OR. The first of these was a two-month period between May to June 2021 at the Bank of London Middle East PLC. Ms Morris observed in her evidence to the Tribunal that this was short and somewhat dated experience, since when the implementation of the UK OR rules had moved on several stages.
21. The second of these was a position with a South African bank as an OR Consultant held from July 2023 – December 2023, providing expertise on the Basel Committee on Banking Supervision (BCBS) "Principles for Operational Resilience". Ms Morris observed in her evidence to the Tribunal that this role did not involve implementation of the OR Rules in

the UK and rather it involved the BCBS principles, designed for global applicability across various jurisdictions and at a significantly higher level than the regulatory environment in which the Respondent operates in the UK.

22. On 19/3/24 Ms Morris emailed Ms Rafter *"I don't propose taking Adeline forward. CV doesn't indicate any of the required operations resilience (UK) experience"*.
23. (In opening the case Mr Hay KC conceded that the Respondent's case now was not that the Claimant did not have any of the required experience (as stated in paragraph 23 of the Grounds of Resistance and in the email of 19/3/24). A more accurate statement of the position would be that in Ms Morris's view while the Claimant had some limited and dated experience of implementing UK OR requirements, she did not have any sufficient or recent experience of it. I do not regard this as a significant divergence requiring any formal amendment).
24. On 20/3/24 the news that she would not be interviewed was passed on to the Claimant, who replied, *"That's a shame please could I get some feedback?"* Ms Rafter replied *"As you were not interviewed I don't have any feedback to provide"*.
25. Numerous other applicants also were unsuccessful, and not called to interview following their CVs having been reviewed by Ms Morris.
26. Four candidates were selected for interview, one withdrew, and one was an internal candidate who Ms Morris knew, but finally regarded by her as "not ready" for the role. The two successful candidates were external applicants. Two were appointed because during the process a second role had become available.
27. The CVs of the successful candidates were produced in evidence. They were not as clear as they could have been because of the use of generalised statements commonly found in such documents, and inappropriate redactions by the Respondent of the candidates' former employers' names.
28. However I find that those CVs are at least consistent with Ms Morris's evidence that *"Candidate 1 had over five years' experience in working on UK operational resilience regulation at discussion and consultation paper stage as well as following the publication of the Rules at systemically important UK regulated firms."* and that *"Candidate 2's CV indicated multiyear experience in implementing Operational Resilience regulation across*

multiple UK regulated organisations, including a Tier 1 retail bank. Specific SS1/21 and PS21/3 deliverables were referenced and that therefore they had far more relevant and recent experience of UK OR implementation than did the Claimant.

29. On the subject of Ms Morris's prior knowledge of the Claimant and her former claim, it is accepted that in June 2018 the Claimant had emailed Ms Morris regarding a potential role in the latter's previous team (Technology Controls) as HR had flagged to the Claimant that it would soon be posted. The Claimant had asked if Ms Morris had any details of the role, when it would be posited, and if it would be available in London. Ms Morris replied that the role was Edinburgh-based, which the Claimant confirmed did not suit her as she was in London.

30. The Claimant also claimed that *"Later that year (2018) I met Fiona when she travelled to London for a business trip, and had a discussion with her about joining her team post the delivery of the ICB (Ring fencing) Programme. At that time there were no open opportunities in her organisation, but she promised to keep me posted if any suitable roles became available."* Ms Morris stated that she could not remember that meeting, but I accept the Claimant's evidence that it did occur.

31. Ms Morris stated in her witness statement that *"I ...did not know that Adeline had previously raised an Employment Tribunal claim against the Bank when I decided not to progress her CV any further. I was made aware in passing that there had been an Employment Tribunal claim against the Bank around the time Adeline's original claim concluded, at which time it was reported externally in the press. I did not read any of the stories in the press myself. The extent of my awareness was extremely limited; a close colleague mentioned to me in a passing comment that there had been a reported claim against the Bank that involved Lucinda Lambourne and Mary Pragnell. This must have been around early 2022 when I understand the judgement was published online. My colleague mentioned it to me by reference to Mary and Lucinda specifically as my colleague and I were both working with them at the time. I don't recall any further specifics of this conversation and I don't recall that I was aware of the identity of the Claimant in the case or the details of their claim and the outcome. I certainly did not recognise, when I reviewed Adeline's CV in 2024, that she was someone who had previously raised a claim against the Bank"*.

32. In her oral evidence Ms Morris said that Tia Ferguson (then Head of Internal Service Management at the Respondent) was the *"close colleague"* that had drawn her attention to the former claim.

33. It is evident from the written reasons in the former claim remedy judgment signed on 12/5/23 that Ms Ferguson was a witness for the Respondent during the former claim remedy hearing on 24-28/4/23.

34. Ms Morris said that she had been on long-term sick leave in the first half of 2023 but started a staged return to work in July 2023. She could not remember clearly whether Ms Ferguson had told her about the former claim in 2022 or in 2023, but thought it was probably in 2022. She said that Ms Ferguson had some article or magazine which referred to the former claim and that she “*showed it to*”/“*waved it at*” her (Ms Morris). However she said that the reason for Ms Ferguson’s and Ms Morris’s interest in the former claim, at the time that Ms Ferguson drew Ms Morris’s attention to it, was that it had involved Lucinda Lambourne with whom Ms Morris had a “*fractious relationship*” arising from Ms Morris experiencing Ms Lambourne as “*challenging*”.
35. I found Ms Morris to be a nervous and long-winded witness with a poor memory and there were some difficulties in my hearing clearly what she said at times (which however I managed satisfactorily by getting her to repeat various statements, change her audio set-up and finally move rooms). Nevertheless, she impressed me as an honest and reliable witness.
36. If Ms Morris had wanted to lie about the extent of her knowledge of the former claim she would be more likely to have denied all knowledge of it, rather than produce a complicated story about “*hearing rumblings*” and Ms Ferguson having “*waved a written article at her*”.
37. The Claimant submitted that her name was an unusual one (particularly her first name Adeline but also that Willis was uncommon) and hence, she had a name not likely to be forgotten. I was not taken to any statistical or objective evidence on the point.
38. It is not difficult to understand how a person like Ms Morris, who obviously has a poor memory, could have been made aware (whether in 2022 or 2023) of the fact that a successful claim had been brought against her employer, and to note that a particular individual (Ms Lambourne) - already known to Ms Morris for her alleged “challenging” interactions – had been a protagonist in the events leading to that claim, - without Ms Morris at the time focussing on or subsequently remembering in 2024 the name of the person (even if as the Claimant contends, her name is unusual) who had been the successful claimant in that former claim.
39. Furthermore Ms Morris’s evidence that “*I certainly did not recognise, when I reviewed Adeline’s CV in 2024, that she was someone who had previously raised a claim against the Bank*” is strongly supported by the question which Ms Morris asked on 14/3/24 “*Do you know and (sic) Adeline Willis?*” If Ms Morris had recognised the Claimant’s name and knew who she was, that question would not have been asked.

Conclusions

40. I have found that the Claimant was not promised an interview by Ms Rafter, and that this was plainly a situation in which Ms Morris would be the one to offer interviews to those she thought were likely to be most suitable for the role, based on her scrutiny of the CVs and any other knowledge which Ms Morris brought to the process.
41. Ms Rafter did not know the Claimant from before and was unaware of the former claim.

42. It is not in dispute that the Claimant's protected act was to some extent known to Ms Morris before she decided not to interview the Claimant.
43. I am satisfied by and accept Ms Morris's evidence that she did not recognise/remember the Claimant's name (either as a person she had had prior dealings with or as the person who had brought the former claim) when Ms Morris reviewed the Claimant's CV.
44. The non-discriminatory reason/s put forward by the Respondent for the non-progression of the Claimant's expression of interest in the new role (namely that (i) the Respondent wanted someone with proven significant recent experience in the implementation of the OR rules in the UK and (ii) the Claimant's CV did not show a sufficiency of that experience); is supported by contemporary documents referred to above including the contracting call template, the job description, the Claimant's manuscript note, the Claimant's CV, and Ms Morris's email to Ms Rafter on 19/3/24.
45. The Claimant has not adduced facts to pass the onus of proof to the Respondent under section 136. If I am wrong about that, I am in any event satisfied by the Respondent's explanation and find that the reason that the Claimant was not called to interview was not the protected act (her former claim) but rather the operational reasons put forward by the Respondent.
46. Hence the claim fails.

J S Burns Employment Judge
London Central
27/06/2025
For Secretary of the Tribunals
Date sent to parties
1 July 2025
