



## EMPLOYMENT TRIBUNALS

Claimant

Respondent

**Mrs F Nissa**

v

(1) **Waverley Education Foundation Ltd**  
(2) **Jaqueline Newsome**

### OPEN PRELIMINARY HEARING

Heard at: **Birmingham**

On: **5 April 2017**

Before: **Employment Judge Perry**

#### Appearances

For the Claimant: **Mr D Maxwell (counsel)**

For the Respondents: **Miss E Hodgetts (counsel)**

### JUDGMENT

1. The claimant's unfair dismissal complaint was not presented in time. It was reasonably practicable for the complaint to be presented in time. In any event, it was not presented within such further period as was reasonable. The tribunal does not have jurisdiction to hear the unfair dismissal complaint and it is dismissed.
2. The claimant's disability discrimination complaints were not presented in time. The parties had not addressed whether the acts relied upon formed or as a matter of law, were capable of forming, conduct extending over a period ([Arthur v London Eastern Railway Ltd \[2007\] IRLR 58](#)) nor would time have been sufficient for me to enable me to do so. It was agreed I would determine if time should be extended for the last act and to allow the tribunal determining the final hearing to determine those matters (as it would need to hear evidence on those points in any event as that was background). I concluded it was just and equitable to extend time in relation to the last act.

#### Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

### ORDERS

#### MADE PURSUANT TO THE EMPLOYMENT TRIBUNAL RULES 2013

**I made the following case management orders by consent.**

1. The claim is listed for an Open Preliminary Hearing before an Employment Judge sitting alone at 9:45 am or so soon thereafter as possible on 26 May 2017 (time estimate 1 day). The parties shall attend by 9:30 am. The hearing shall determine:

*If the claimant was a disabled person within the meaning of s.6 Equality Act 2010 at the material time (16 December 2015 to 31 August 2016 as identified at*



2.1 to 2.15 of her impact statement). The two impairments relied upon are fibromyalgia and mental distress.

or such of those matters as time allows. The parties should come prepared to deal with any case management requirements that are identified during or as a result of the Hearing.

- 2. No later than 28 April 2017 the respondent is ordered to inform the claimant and the Tribunal if, it concedes that the claimant is or was at the material time a disabled person, identifying the disability(ies), the period and/or the extent of any remaining dispute on these issues.
- 3. By no later than 8 May 2017 the claimant shall forward to the respondent a list of issues identifying the dates of each act of discrimination
- 4. Seven days before the first day of the Open Preliminary Hearing the parties shall forward to each other and to the tribunal:
  - 4.1 any submissions/skeleton arguments and
  - 4.2 any authorities
 upon which they intend to rely at the Hearing.

Mrs F Nissa v Waverley Education Foundation Ltd and another  
Open Preliminary Hearing on 5 April 2017  
Case Number: 1300482/2017 [2 / 2]

.....  
Employment Judge Perry  
Dated: **6 April 2017**

Sent to Parties on 6 April 2017

.....  
Shareen Brown  
.....

**CONSEQUENCES OF NON-COMPLIANCE**

- 1. Failure to comply with an order for disclosure may result on summary conviction in a fine of up to £1,000 being imposed upon a person in default under s.7(4) of the Employment Tribunals Act 1996.
- 2. The Tribunal may also make a further order (an “unless order”) providing that unless it is complied with, the claim or, as the case may be, the response shall be struck out on the date of non-compliance without further consideration of the proceedings or the need to give notice or hold a preliminary hearing or a hearing.
- 3. An order may be varied or revoked upon application by a person affected by the order or by a judge on his/her own initiative.