



EMPLOYMENT TRIBUNALS

Claimant: Ms M Sweeney

Respondent: Merseyside Community Rehabilitation Company Limited

HELD AT: Liverpool

ON: 6-17 February 2017

BEFORE: Employment Judge Horne
Ms F Crane
Mr B Bannon

REPRESENTATION:

Claimant: In person

Respondent: Ms D Grennan, counsel

JUDGMENT

The unanimous judgment of the Tribunal is that:

1. The claimant was disabled by reason of colitis from 23 August 2013.
2. The respondent did not victimise the claimant.
3. The Tribunal has no jurisdiction to consider whether Ms Kuyateh harassed the claimant. This is because the claimant presented her claim after the expiry of the statutory time limit and it is not just and equitable to extend time.
4. In all other respects the respondent did not harass the claimant.
5. The respondent did not discriminate against the claimant arising from disability.
6. It is just and equitable to extend the time limit in respect of the complaint of failure to make adjustments on the basis of PCP1 (the introduction of OASysR) and PCP3 (issuing an attendance notice).
7. The respondent failed in its duty to make the adjustment to PCP1 of training the claimant in the use of OASysR.

8. The respondent failed in its duty to make the adjustment to PCP3 of delaying issuing the attendance notice.
9. In all other respects the respondent did not breach the duty to make adjustments based on PCP1.
10. The respondent did not breach the duty to make adjustments in respect of:
 - 10.1 PCP2 (frequency of contact),
 - 10.2 the auxiliary aid of a support worker,
 - 10.3 PCP4 (the companion at meetings on 19 May 2014, 5 June 2014 and 3 July 2014) or
 - 10.4 PCP5 (recording of those meetings)and it is unnecessary for the Tribunal to consider whether it has jurisdiction to consider those parts of the claim.
11. The claimant's application to amend her claim by complaining of failure to make adjustments in respect of the meetings on 15 May 2014 and 20 June 2014 is refused.
12. The Tribunal does not have jurisdiction to consider whether the respondent failed to make adjustments under PCP6 (workload from February to April 2014) because the claim was presented after the expiry of the statutory time limit and it is not just and equitable to extend time.
13. The claimant made a protected disclosure on 16 May 2014, but not on 9 October 2013.
14. The respondent did not subject the claimant to any detriment on the ground that she made a protected disclosure.
15. The claimant was not constructively dismissed so her complaint of unfair dismissal fails.
16. The respondent did not discriminate against the claimant because of disability.

CASE MANAGEMENT ORDER

1. The issue of remedy will be determined at a separate hearing on a date to be notified to the parties.
2. By 4pm on 14 March 2017 the parties must notify the tribunal in writing of any case management orders that they consider are necessary for the purpose of the remedy hearing.

3. The claimant has requested written reasons, which will follow this judgment. Sending of the reasons may take several weeks. The parties must not wait for the written reasons before preparing for the remedy hearing.
4. The claimant's request for a separate transcript of the oral reasons announced to the parties at the conclusion of the hearing is refused. The written reasons will largely incorporate and will be consistent with the oral reasons.

Employment Judge Horne

28 February 2017

JUDGMENT SENT TO THE PARTIES ON

3 March 2017

FOR THE TRIBUNAL OFFICE