



EMPLOYMENT TRIBUNALS

Claimant: Mr. J. Lumborg

Respondent: Airbus Operations Ltd

HELD AT: Mold **ON:** 7th, 10th–12th February 2020

BEFORE: Employment Judge T. Vincent Ryan
Mr. A. Fryer
Ms L.V. Owen

REPRESENTATION:

Claimant: Mr G. Pollitt, Counsel

Respondent: Mr. A. Alemoru, Solicitor

JUDGMENT

The unanimous judgment and declaration of the Tribunal is:

1. The claimant, who was dismissed by the respondent for a reason related to conduct on 23rd February 2018, was unfairly dismissed; his claim of unfair dismissal is therefore well-founded and succeeds.
2. The tribunal was unable to make a finding of blameworthy conduct at the Liability Hearing to support a reduction in the claimant's Unfair Dismissal Basic and Compensatory Awards as contended for by the respondent (albeit both awards are yet to be determined and both parties may advance evidence and make further submissions at the Remedy Hearing on contribution), but as regards the claimant's potential Compensatory Award the tribunal finds that the claimant was at a substantial risk of his being fairly dismissed; any Compensatory Award will reflect this risk. Remedy is to be addressed at a remedy Hearing to be listed in due course.
3. The claimant's claim that the respondent's imposing a disciplinary warning on him on 8th February 2017 amounted to discrimination arising from a disability was presented to the tribunal out of time in circumstances when it would not be just and equitable to extend time until eventual presentation of the claim. This claim is dismissed.

4. The respondent did not discriminate against the claimant by treating him unfavourably because of something arising in consequence of his disability by dismissing him. That claim fails and is dismissed.

5. The Respondent did not operate a provision, criterion or practice that “mistakes/poor performance/poor workmanship lead to disciplinary sanctions”. It operated a provision, criterion or practice that mistakes/poor performance/poor workmanship would lead to consideration of disciplinary action; this did not put the claimant at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled. The claimant’s claim that the respondent breached a duty to make reasonable adjustments fails and is dismissed.

Employment Judge T.V. Ryan

Date: 13.02.20

JUDGMENT SENT TO THE PARTIES ON 14 February 2020

FOR THE TRIBUNAL OFFICE

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 (and no such request was made) or a written request is presented by either party within 14 days of the sending of this written record of the decision.