

Case: 1803981/2019 &
1801313/2002 (V)



EMPLOYMENT TRIBUNALS

Claimant: Miss T Burton
Respondent: Royal Mail Group Limited

AT A HEARING

Heard at: Leeds **On:** 23rd, 24th, 27th, 30th November and 1st, 2nd, 3rd,
4th, 7th, 8th, 9th, 10th & 11th December 2020.

Before: Employment Judge Lancaster
Members: Mr W Roberts
Ms H Fletcher

Representation

Claimant: In person
Respondent: Mr I Hartley, solicitor

This has been a partially remote hearing which has been consented by the parties. The initial case management discussion on 23rd November was by telephone conference call (A) and the form of remote hearing thereafter was that a number of witnesses gave evidence by CVP video link (V). 23rd and 24th November were reading days for the tribunal and 9th and 10th December were set aside for deliberations in private. A face to face hearing on all days was not held because it was not practicable and all issues could be determined in a partially remote hearing.

The unanimous decision of the tribunal is:

JUDGMENT

1. The complaint of victimisation under claim number 1803981/2019 succeeds in part.
2. The Claimant was unfavourably treated because she had done protected acts, namely:
 - (i) the raising of a grievance on 2nd April 2019 which included , inter alia, a complaint of indirect disability discrimination;
 - (ii) the raising of a bullying and harassment complaint on 2nd April 2019 alleging harassment related to sex or direct sex discrimination;
 - (iii) the express or implied repetition of those complaints of sex discrimination or harassment within a fact-find investigation on 26th April and a disciplinary hearing on 11th June 2019;

Case: 1803981/2019 &
1801313/2002 (V)

- (iv) the further disclosure of allegations of sex discrimination in the workplace in the course of that disciplinary hearing.

3. The acts of detriment to which the Claimant was subjected were:

- (i) The Respondent after purportedly allocating it to a manager to hear, did not pursue the Claimant's grievance at all;
- (ii) The Respondent after initially assigning a manager to hear the bullying and Harassment on 5th April 2029 withdrew it from his consideration on 8th April 2019;
- (iii) The Respondent, in breach of the ACAS code of practice, did not ever in fact afford the Claimant any opportunity formally to address her bullying and harassment complaint either before, during or after the disciplinary proceedings which were instigated on 24th April 2019;
- (iv) The Respondent, again in breach of the ACAS code of practice, did not ever make any proper or fully informed decision on the Claimant's bullying and harassment complaint (and necessarily therefore also did not afford her any proper right of appeal);
- (v) The Respondent did not in the course of the subsequent disciplinary process carry out any investigation of the evidence identified as potentially relevant by the Claimant in the context of her bullying and harassment complaint, namely CCTV evidence which would have still been available at the point the investigating manager was taken off the case on 8th April 2019
- (vi) The Respondent failed to honour an undertaking that it would record in the notes of the disciplinary meeting the further allegations then raised by the Claimant, and did not carry out any proper investigation into those matters.
- (vii) The Respondent disciplined the Claimant for a breach of its social media policy which arose contextually upon her posting comments in response to the withdrawal of her bullying and harassment complaint on 8th April 2019.

4. The complaint of victimisation under claim number 1801313/2020 succeeds in part.

5. The Claimant was unfavourably treated because she had done protected acts, namely:

- (i) Raising an allegation of a failure to make reasonable adjustments in a letter dated 6th December 2019;
- (ii) Raising a grievance, originally on 8th January 2020, alleging disability discrimination, failure to make reasonable adjustments, victimisation and harassment.

6. The act of detriment to which the Claimant was subjected was on 3rd February 2020 being moved to the Delivery sector and thereby denying her the opportunity to be considered for or to be phased back into an alternative duty driving a route on Collections.

7. All other claims are dismissed.

Upon the parties having now agreed terms of settlement:

8. The claim for remedy is dismissed upon withdrawal.

Case: 1803981/2019 &
1801313/2002 (V)

9. The Remedy Hearing listed for 26th February 2021 will not now take place and all case management orders in respect of that hearing are rescinded..

EMPLOYMENT JU DGE LANCASTER

DATE 17th December 2020