



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr D Mabaso

**Respondent:** The Commissioners for Her Majesty's Revenue and Customs

**Heard at:** Bristol

**On:** 24 February 2017

**Before:** Employment Judge Mulvaney

## **Representation**

**Claimant:** In Person

**Respondent:** Mr G Rowell

# JUDGMENT

The claimant's claims of indirect race and indirect disability discrimination contrary to s19 Equality Act 2010 and of harassment related to disability and harassment related to race under s26 Equality Act 2010 and of direct disability discrimination are struck out as having no reasonable prospect of success.

No order is made in respect of the claimant's claims of unfair dismissal, wrongful dismissal, direct race discrimination, failure to make reasonable adjustments and victimisation.

# DEPOSIT ORDER

The Employment Judge considers that the claimant's allegation or argument that he was discriminated against under s15 Equality Act 2010, having been unfavourably treated (dismissed) because of

something arising as a consequence of his disability, namely his inability to remember his actions which he contended was a consequence of his disability, has little reasonable prospect of success. The claimant is ORDERED to pay a deposit of £500 not later than 21 days from the date this Order is sent as a condition of being permitted to continue to advance those allegations or arguments. The Judge has had regard to the information provided by the claimant as to the claimant's ability to comply with the order in determining the amount of the deposit.

## REASONS

1. A complaint under s15 Equality Act requires a claimant to show that he was unfavourably treated because of something arising as a consequence of his disability.
2. The unfavourable treatment relied on by the claimant was his dismissal by the respondent.
3. The claimant contended that the something arising as a consequence of his disability was his poor recollection. His poor recollection meant that he was unable to recall whether he had taken the actions that led to his dismissal by the respondent. He did not contend that the accessing of Tax Credit records without authority (the conduct relied on by the respondent as the reason for his dismissal) was a consequence of his disability.
4. The respondent contends and the documentary evidence appears to support that the reason that the respondent dismissed the claimant was because it concluded that he had accessed his own and a third party's Tax Credit records without authority to do so. There is no evidence that the respondent dismissed the claimant because the claimant could not recollect his actions.
5. It is unlikely that a Tribunal will find that there was a connection between the claimant's dismissal and his poor recollection. It is likely that the Tribunal will find that the dismissal of the claimant was connected to the unauthorised access of Tax Credit records. There was some conflicting evidence about whether the claimant recalled accessing the records, but even if the Tribunal were to find that the claimant was unable to recollect whether he had accessed the records or not, it is unlikely to find that there was sufficient connection between that lack of recollection and his dismissal.

6. The claimant is therefore unlikely to be able to establish that his dismissal was because of something arising as a consequence of his disability.
7. The amount of the deposit was set after hearing from the claimant as to his means. He is currently unemployed and has no regular income. He has savings of approximately £800 and has been approved for a grant by the University where he is now studying. He has no dependents. He is in rented accommodation and is in arrears with his rent but said that his landlord was not pressing for payment. I concluded that the claimant would be able to pay half of the maximum deposit sum of £1,000 provided under rule 30.

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Employment Judge Mulvaney  
Date: 3 March 2017

ORDER SENT TO THE PARTIES ON  
.....7 March 2017.....

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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 or a written request is presented by either party within 14 days of the sending of this written record of the decision.