



THE EMPLOYMENT TRIBUNALS

Claimants: (1) Mr C Stephenson
(2) Mrs S Kirk

Respondent: Northumberland County Council

Heard at: North Shields **On:** 11 October 2018

Before: Employment Judge Johnson

Members: Mr P Curtis
Ms E Jennings

Representation:

For the First Claimant: In person
For the Second Claimant: Mr H Menon of Counsel
For the Respondent: Ms C Millns of Counsel

JUDGMENT

- 1 The following applications made by or on behalf of Mr Barry Rowland are refused:-
 - 1.1 For a Restricted Reporting Order pursuant to Rule 50 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.
 - 1.2 For an Order that the remainder of the hearing, or such part of it which concerns Mr Rowland, be heard in private pursuant to Rule 50(3) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

REASONS

- 1 Today was the tenth and penultimate day of an eleven day hearing of the claims brought by the two claimants against the respondent. Both bring claims of unfair dismissal relating to their selection for redundancy in late 2016. Mr Stephenson further alleges unlawful age discrimination. Mrs Kirk alleges unlawful disability

discrimination and further that she was subjected to detriment and ultimately dismissed because she had made protected disclosures.

- 2 One of the protected disclosures allegedly made by the claimant concerned an alleged conspiracy between other directors to remove Mr Rowland from his position as Executive Director of Local Services with the respondent. The Tribunal has as yet made no finding as to whether Mrs Kirk did make a protected disclosure about this matter.
- 3 Mr Rowland left the respondent council in July 2015, having entered into a compromise agreement with the council dated 31 July 2015. The Tribunal is satisfied that the following matters were matters of public knowledge prior to the commencement of these proceedings:-
 - 3.1 The fact that Mr Rowland had left the council.
 - 3.2 The fact that Mr Rowland had entered into a compromise agreement.
 - 3.3 The total sum paid to Mr Rowland by way of compensation was shown in the annual accounts of the respondent.
- 4 By letter sent by e-mail timed at 10:11am on the morning of 11 October, solicitors instructed by Mr Rowland made an application for a Restricted Reporting Order and for a further Order that the remainder of, or any part of the hearing which concerns Mr Rowland, should be held in private. The grounds for the application are set out in the letter and may be summarised as follows:-
 - 4.1 That the compromise agreement contains a confidentiality clause which prohibits the publication of any statement to any third party concerning the agreement or the circumstances surrounding the termination of Mr Rowland's employment.
 - 4.2 That Mr Rowland has the right to a private life and privacy in accordance with Article 8 of the European Convention on Human Rights.
- 5 The letter from Mr Rowland's solicitors sets out that Mr Rowland only became aware of these proceedings and the potential reference to his personal situation "at the end of last week and over last weekend following contact made to him by Northumberland County Council for the first time". The letter goes on to state, "Mr Rowland has also become aware that the proceedings referred to above have been referred to in press reports in the Northumberland Gazette and in the Newcastle Journal and that such press reports refer to sensitive issues involving Mr Rowland and his receipt of a settlement agreement"

- 6 The Tribunal was aware that a member of the press was present throughout the hearing, although that member of the press was not present today. It was thus not possible to invite that member of the press to make any representations about the application. None of Mr Stephenson, Mr Menon or Ms Millns supported or opposed the application.
- 7 All the evidence relating to the termination of Mr Rowland's employment with the council has already been given and the terms of the settlement agreement between Mr Rowland and the respondent have been disclosed. The Tribunal is satisfied that those matters were already in the public domain for the reasons set out above. It is unlikely that any further details of the settlement agreement will be included in any judgment of the Employment Tribunal. The principal issue for the Tribunal to decide is whether Mrs Kirk made a qualifying and thus protected disclosure about methods being adopted by other members of the respondent's staff to facilitate the removal of Mr Rowland from his position. It is not for this Tribunal to make any finding as to the legality, commercial reality or the morality of the terms of the settlement agreement.
- 8 In all the circumstances the Tribunal is not satisfied that it is necessary in the interests of justice or to protect the Convention rights of Mr Rowland, to make either a Restricted Reporting Order or to hold any remaining part of this hearing in private.

EMPLOYMENT JUDGE JOHNSON

**JUDGMENT SIGNED BY EMPLOYMENT
JUDGE ON**

12 October 2018

JUDGMENT SENT TO THE PARTIES ON

12 October 2018

**AND ENTERED IN THE REGISTER FOR THE
TRIBUNAL**

G Palmer

**Case Numbers: 2500613/2017
& 2500617/2017**

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