



EMPLOYMENT TRIBUNALS

Claimant: Mrs L Scott

Respondent: Brighton Housing Trust Ltd

Heard at: London South **On:** 11 April 2019

Before: Employment Judge Martin

Representation

Claimant: Did not attend

Respondent: Mr Blitz - Counsel

JUDGMENT

The unanimous decision of the Tribunal is that the Claimant's claims are dismissed.

REASONS

1. The Claimant did not attend for this hearing. The Respondent attended with three witnesses all of who had a witness statement and a bundle of documents.
2. There was a preliminary hearing on 3 May 2018 which the Claimant attended at which case management orders were made including those relating to disclosure of documents and witness statements. The dates for compliance were disclosure by 9 January 2019 and witness statements to be exchanged on or before 6 March. The Claimant has not complied with these orders.
3. The only communication that the Tribunal has received from the Claimant following the preliminary hearing is an (save for a letter agreeing to judicial mediation) was an email dated 7 March 2019 in which the Claimant says she was due to attend court on 10-12 April 2019 and asking for a delay to the time table for disclosure as she was struggling with depression. No medical information was given. The Respondent objected to any delay given the date of this hearing. There was no request for a postponement.
4. The Claimant referred to 'pressurising letters' from the Respondent's

solicitors. The Tribunal has seen these letters and they were letters regarding disclosure and the exchange of witness statements which were entirely proper and reasonable.

5. The Claimant did not tell the Tribunal she was not attending the hearing or tell the Respondent. The Tribunal was invited to strike out the Claimant's claim pursuant to rule 47 Employment Tribunal Rules of Procedure 2013 which provides that if a party fails to attend for a hearing the Tribunal can dismiss the claim or proceed with the hearing in the absence of that party. The Tribunal asked the clerk to telephone the Claimant to find out if she was coming. The number she had given the Tribunal rang but was not picked up and there was no facility to leave a message. The Tribunal decided to hear the Claimant's claim in her absence.
6. The Tribunal heard from Mr David Chaffey Director of Housing, Ms Gemma Baldwin, HR Manager and from Ms Penny Laycock Housing Services Manager. The Tribunal read their statements and asked them questions under oath. All witnesses answered the questions to the Tribunal's satisfaction.
7. The Tribunal finds that there was a genuine redundancy situation following a restructure. The restructure had three full posts, but they could have been done on a job share basis. There was no requirement for only one post holder to do the role.
8. The tribunal finds that the consultation process, bearing in mind the size and administrative resources of the Respondent was reasonable. The claimant had the opportunity to put forward alternatives to redundancy, and the Tribunal is satisfied that if she had proposed a job share this would have been considered by the Respondent. Mr Chaffey gave evidence of how flexible the organisation is, in relation to location of work as well as part-time and job-sharing opportunities. The evidence was that the Claimant and her colleague, Ms Lyn Webb, both said that a job share would not work. There is a written record of this being said at a consultation meeting and the Tribunal are satisfied that this was discussed in that process.
9. It appears that the timing for the consultation as originally planned had slipped for understandable reasons (these related to personal matters of one member of staff dealing with the consultation process), however this does not affect the overall reasonableness of the consultation.
10. The Claimant said from the outset that she would take voluntary redundancy and despite offers from the Respondent in the consultation process for her and her colleagues to put forward alternatives did not put forward another suggestion.
11. The Tribunal is satisfied that the Respondent would have considered job share or other alternatives had they been put forward, the claimant wanted voluntary redundancy and this is the reason her employment was terminated.
12. The Tribunal makes a specific finding, having heard from the Respondent witnesses and having asked questions about this, that the Claimant was

not told in the first consultation meeting "*that as a part time employee there was no job for me unless I would go full time*". When the Claimant complains that the roles are full time prior to dismissal the Respondent responds by asking her to tell them how it could function on a part time or job share basis and that they would consider the proposals.

13. The Tribunal does not find the claimant to have been unfairly dismissed. The reasons for dismissal was redundancy and the process was reasonable. In any event, the Claimant volunteered for redundancy saying it was the push she needed to try something else.
14. The Tribunal does not find the termination of the Claimant's employment to be unfavourable treatment on the ground of sex or as a part time worker. The Respondent has shown that it was flexible and, in the past, agreed to flexible working for the Claimant and others.
15. The Claimant was not attendance at this hearing and the Respondent's evidence was therefore unchallenged. The Tribunal having clarified certain points in its questions of all witnesses dismissed the Claimant's claims.

Employment Judge Martin
Date 12 April 2019