Reserved Decision

EMPLOYMENT TRIBUNALS

Claimant:	**Mr Mohamed Babiker**
Respondents:	**London United Busways Limited**
Heard:	**Watford Hearing Centre (in person and by video, i.e. a hybrid hearing)**
On:	**16 & 17 November 2021 and 8 December 2021**
Before:	**Employment Judge G Tobin**
Members:	**Ms S Fryers** **Mr D Sagar**
Representation	
Claimant:	**In person**
Respondent:	**Mr H Hayre (solicitor)**

RESERVED JUDGMENT

By a majority decision, the Employment Tribunal determined that:

1. **The claimant was not discriminated against on the grounds of his race, in breach of s13 Equality Act 2010.**

2. **Accordingly, proceedings are now dismissed.**

REASONS

The hearing

1. This was a hybrid hearing which had been consented to by the claimant and the respondent. Employment Judge Tobin, Tribunal Member Mr Sagar and the claimant,

were present at the hearing centre and the form of remote hearing was a video hearing under HM Courts & Tribunal Service Cloud Video Platform. All other participants were remote (i.e., not physically at the hearing centre) including Tribunal Member Ms Fryers. A face-to-face hearing was not held because it was not practical for some attendees to be present in the light of the coronavirus pandemic and the governments restrictions. All the issues could all be determined at this hybrid hearing.

2. A Sudanese Arabic interpreter was booked for the hearing, although the Tribunal experienced some delay with her attendance. The claimant said he would proceed without the interpreter. The Employment Judge explained to the claimant the implications of proceeding. The claimant said that his English was sufficient and that he thought the interpreter was only required in case he had some difficulties with legal phrasing. The Tribunal was satisfied that the claimant's English and his understanding was sufficiently good to discharge the interpreter. The claimant did not display any difficulties in comprehending as the hearing progressed.

The claim

3. The claim was summarised by Judge Johnson in his note of the Preliminary Hearing of 22 April 2020. Judge Johnson identified a list of issues. The list of issues is a summary of the legal and factual disputes between parties.

The list of issues

Direct discrimination because of race: s13 Equality Act 2010 ("EqA")

I. As the respondent subjected the claimant to the following treatment:

   a. In the manner that he was disciplined?

   b. Mr Corbett's failure to deal with the grounds of the claimant's appeal and consider his comparator?

   c. By dismissing him?

II. Was the treatment *less favourable treatment*, i.e. did the respondent treat the claimant as alleged less favourably treated or would have treated others (*comparators)* in not materially different circumstances? The claimant relies on the following comparator: Dilan Hendin and/or hypothetical comparators.

III. If so, was this because of the claimant's race and/or because of the protected characteristic of race more generally?

IV. Has the claimant suffered less favourable treatment within the meaning of s13 EqA should.

The relevant law

4. The relevant applicable law for the claims considered is as follows.

Protected characteristics

5. Under s4 EqA, a protected characteristic for a claimant includes race, which includes: (a) colour; (b) nationality; and (c) ethnic or national origin. S4 EqA also provides that someone's sex is a protected characteristic.

Direct discrimination

6. S13(1) EqA precludes direct discrimination:

> *A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.*

7. The examination of *less favourable treatment because of the protected characteristic* involves the search for a comparator and a causal link. When assessing an appropriate comparator, "there must be no material difference between the circumstances relating to each case": s23(1) EqA.

The burden of proof and the standard of proof

8. S136 EqA implements the European Union Burden of Proof Directive. This requires the claimant to prove facts from which the Tribunal could conclude, in the absence of an adequate explanation, that the employer has committed an act of unlawful discrimination, and it is then for the employer to prove otherwise.

9. The cases of *Barton v Investec Henderson Crosthwaite Securities Ltd [2003] ICR 1205* and *Igen Ltd v Wong [2005] EWCA Civ 142, [2005] ICR 931* provide a 13-point form/checklist which outlines a two-stage approach to discharge the burden of proof. In essence, this can be distilled into a 2-strage approach:

    a. Has the claimant proved facts from which, in the absence of an adequate explanation, the tribunal could conclude that the respondent had committed unlawful discrimination?

    b. If the claimant satisfies (a), but not otherwise, has the respondent proved that unlawful discrimination was not committed or was not to be treated as committed?

10. The Court of Appeal in *Igen* emphasised the importance of *could* in (a). The claimant is nevertheless required to produce evidence from which the Tribunal could conclude that discrimination has occurred. The Tribunal must establish that there is prime facie evidence of a link between less favourable treatment and, say, the difference of race and that these are not merely two unrelated factors: see *University of Huddersfield v Wolff [2004] IRLR 534*. It is usually essential to have concrete evidence of less favourable treatment. It is essential that the Employment Tribunal draws its inferences from findings of primary fact and not just from evidence that is not taken to a conclusion: see *Anya v University of Oxford [2001] EWCA Civ 405, [2001] ICR 847*.

11. So, the burden is on the claimant to prove, on a balance of probabilities, a prima facie case of discrimination. The Court of Appeal, in *Madarassy v Nomura International plc [2007] EWCA Civ 33* at paragraph 56. The court in *Igen* expressly rejected the argument that it was sufficient for the complainant simply to prove facts from which the Tribunal could conclude that the respondent *could have* committed an unlawful act of

discrimination. The bare facts of a difference in status and a difference in treatment only indicate a possibility of discrimination. They are not, without more, sufficient material from which a Tribunal *could conclude* that, on the balance of probabilities, the respondent had committed an unlawful act of discrimination. It was confirmed that the claimant must establish more than a difference in status (e.g. race or sex) and a difference in treatment before a Tribunal will be in a position where it *could conclude* that an act of discrimination had been committed.

12. Even if the Tribunal believes that the respondent's conduct requires explanation, before the burden of proof can shift there must be something to suggest that the treatment was due to the claimant's race. In *B and C v A [2010] IRLR 400 EAT* at paragraph 22:

> The crucial question is on what evidence or primary findings the tribunal based its conclusion that the claimant would not have feared further violence from a female alleged aggressor (and so would have accorded her due process). As we have already noted (paragraph 19), the tribunal does not spell out its thinking on that point. There was no direct evidence on which such a conclusion could be based; no such situation had ever occurred, and the tribunal refers to no admission by C, or other evidence of his attitudes, that might have supported a view as to how he would have behaved if it had. It is of course true that the tribunal was in principle entitled to draw appropriate inferences from the nature of the behaviour complained of. C's behaviour was certainly sufficiently surprising to call for some explanation: in the public sector in particular, it is second nature to executives to follow appropriate procedures, and the explanation offered by The claimant for his failure to do so in the present case – namely that he was seeking to avoid repeat violence (see paragraph 16 above) – is irrational since he could have mitigated the risk to precisely the same extent by suspending the claimant. But the fact that his behaviour calls for explanation does not automatically get the claimant past 'Igen stage 1'. There still has to be reason to believe that the explanation could be that that behaviour was attributable (at least to a significant extent) to the fact that the claimant was a man. On the face of it there is nothing in C's behaviour, all the surrounding circumstances, to give rise to that suspicion.

13. It is not sufficient to shift the burden onto the respondent, that the conduct is simply unfair or unreasonable if it is unconnected to a protected characteristic. In *St Christopher's Fellowship v Walters-Ellis [2010] EWCA Civ 921* at paragraph 44:

> The respondent's bad treatment of the claimant fully justified findings of constructive unfair dismissal, but it could not, in all the circumstances, lead to a finding, in the absence of an adequate explanation, of an act of discrimination. Non-racial considerations were accepted as the explanation for the respondent's similar treatment of the claimant in the other instances in which the claimant alleged race discrimination in relation to participation in recruitment. In the case of Ms Hayward, the respondent made a genuine mistake about the nature of the relationship, which they would not have made if they had properly investigated the nature of the relationship with the claimant and communicated with her, but their failure to do so was accepted to be the result of a genuine belief. The fact that it was mistaken could not, in the context of scrupulous attention to recruitment procedures, reasonably be held to have the effect of indicating the presence of racial grounds and so shifting the burden of proof to the respondent to prove that he had not committed an act of race discrimination.

14. In the case of *Nagarajan v London Regional Transport [2000] 1 Mr Chircop 501*, Lord Nicholls stated at 512-513:

> Decisions are frequently reached for more than one reason. Discrimination may be on racial grounds, even though it is not the sole ground for the decision. A variety of phases, with different shades of meaning, have been used to explain how to legislation applies in such cases: discrimination requires that racial grounds were a cause, the aggravating cause, a substantial and effective cause, a substantial reason, an important factor. No one phrase is obviously preferable to all others, although in the application of this legislation legalistic phases, as well as subtle distinctions, are better avoided. So far as possible. If racial grounds or protected acts has a significant influence on the outcome, discrimination is made out.

15. Employment Tribunal's adopt the civil standard of proof, which is on the balance of probabilities, i.e. more likely than not.

The evidence

16. After a short case management conference and a review of the list of issues, we (i.e. the Tribunal) retired to read the witness statements and the documents that had been identified for preliminary reading. The Employment Judge advised the parties at the commencement of the hearing that, as a matter of course, Employment Tribunals do not read the entire hearing bundle. If a document is important and relevant then that document needed to be referred to us, either in a witness statement or being specifically referred to the Tribunal at the hearing.

17. We heard direct (i.e. oral) evidence from the claimant. The claimant confirmed his statement and provided the Tribunal with a signed and dated copy. We also heard evidence from Mr Mohamed Hassan, who confirmed his statement. We also took into account a statement provided by Mr Meng Korasak.

18. We heard evidence from the 2 witnesses on behalf of the respondent. Mr Allan Southgate, who was a General Manager with the respondent, was the dismissing officer and Mr Andrew Corbett, the Commercial Delivery Director, heard the claimant's appeal. Both are provided written statements and the respondent had provided a witness statement bundle comprising of the claimant's and respondent's witness evidence.

19. We also considered a bundle of documents of 428 pages.

Our findings of fact

20. We set out the following findings of fact, which we determined were relevant to finding whether or not the claims and issues identified above have been established. We have not determined all of the points of dispute between the parties, merely those that we regard as relevant to determining the issues of this case as identified above.

21. In assessing the evidence and making determinations, we placed particular reliance upon contemporaneous documents as an accurate version of events. We also place some emphasis (and drew appropriate inferences) on the absence of documents that we expected to see as a contemporaneous record of events. Witness statements are, of course, important. However, these stand as a version of events that was completed sometime after the events in question and are drafted through the prism of either advancing or defending the claims in question. So, we regard them with a degree of circumspection as both memories fade and the accounts may reflect a degree of re-interpretation.

22. The claimant commenced his employment with the respondent on 9 December 2017 as a Bus Driver.

23. On 5 March 2019 the claimant was given a written warning by Mr Nick Newcombe (Operations Manager) in respect of an allegation of spitting and conflict with a member of the public [see Hearing Bundle page 75]. On 14 February 2019 an altercation had occurred with a van driver, who the claimant said became abusive and started calling

him names and insulting his mother. The claimant apologised for the incident, said that he was not normally like this and that the van drivers' comments made him "see red" and that there would never be a repeat of this incident. The claimant was told that this warning would be on his record for 12 months. He was offered the right of appeal and did not appeal.

24. A few weeks later, on 1 April 2019 the claimant was involved in another altercation, this time with Mr Michal Mikucki, the respondent's Service Deliver Manager, and Mr Elmi Mikhtar, the Run Out Supervisor. A dispute had arisen between the claimant and Mr Mikhtar about the allocation of a vehicle. The claimant had taken another bus and was told to return to station by Mr Mikucki. The claimant allegedly called Mr Mikucti "an idiot, a fucking idiot and a idiot" a few times very aggressively shouting and pointing at him. Mr Mikucki thereupon suspended him. The claimant then went over to Mr Mikhtar and threatened him saying that he would wait outside for him and kill him [HB76]. As well as Mr Mikucki account, statements were taken of Mr Sergy Kuklikov [HB77], Mr Ashraf Mohamed [HB78] and Mr Mikhtar [HB79].

25. The Claimant was invited to attend a disciplinary hearing for 4 April 2019 [HB80]. He was informed that the hearing was "regarding your insulting and threatening behaviour on Monday, 1 April 2019". The disciplinary invite letter advised claimant of his statutory right to be accompanied, that he could call any witnesses and that due to the serious nature of the incident, he could ultimately be dismissed. He was provided with the investigation reports and statements.

26. The disciplinary hearing was chaired by Mr Allan Southgate [HB81-84]. Mr Southgate said that the claimant accepted he lost his temper, which was not acceptable. The claimant accepted that he called Mr Mikucki, his manager "an idiot" a number of times, but he denied swearing at him. The claimant accepted that he said to Mr Mikhtar that he would teach him "a lesson he would never forget" but during the disciplinary hearing he said this was not a threat but that he meant he would teach Mr Mikhtar how to speak to people. Mr Southgate did not find this credible. He said he regarded the claimant's language as indicating a threat to harm his supervisor which was behaviour he regarded as completely unacceptable in the workplace and behaviour which could not be tolerated. He said that this behaviour offended against providing a safe working environment and protecting employees from potential harm. At this late stage in the disciplinary hearing the claimant raised a potential witness and Mr Southgate adjourned the hearing for further investigations.

27. The reconvened hearing proceeded on 15 April 2021 [HB88-89 c/f 163-165]. Mr Southgate informed the claimant that he had spoken with his witness, Mr Mohamed Hassan, who confirmed that he had not heard all of the claimant's conversation with Mr Mikhtar.

28. Mr Southgate dismissed the claimant for gross misconduct at the reconvened hearing on 15 April 2019 and the disciplinary outcome letter was sent to the claimant on 29 April 2019 [HB92-93]. The dismissal letter is consistent with the respondent's minutes of the hearing. In his dismissal letter Mr Southgate set out his factual findings and the circumstances of his additional enquiries with Mr Hassan. He said:

> Mr [Hassan] stated that he was with you some of the time and he had not heard you threaten the run out supervisor. I asked if he witnessed the whole incident and he said he did not. I interviewed the run out supervisor in the presence of his union rep who confirmed that whilst following him around the yard area you said you were going to wait outside for him beat him up and kill him.
> I asked if you had sworn at him also and he confirmed you did.
> I then spoke to the Service delivery Manager who also confirmed that you did swear at him and called him and Idiot on several occasions.
> Both the supervisor and the Manager confirmed there reports as evidence were true.
> I informed you that the behaviour was totally unacceptable and staff have a right to attend work without threat of violence and abuse. Your behaviour was insulting and unprofessional.
> He felt aggrieved that you have been allocated a bus that you did not like and also took it upon yourself to take a random un allocated vehicle. You did not address your grievance in a professional way and instead abused and threatened staff with violence.
> After careful consideration, investigation, and review of facts and all documents I informed you my decision was to summary dismiss you from London United with effect from the 15 April 2019.

29. The claimant contended that he raised a possible comparator at his disciplinary hearing. There is no record of this on the respondent's minutes of the hearing, but the claimant surreptitiously recorded the hearing (and other hearings). The claimant did not tell the respondent that he recorded the hearing and Mr Southgate respondent did not know of this. In the claimant's transcript, he mentioned a "competitor" in passing. It was not clear what the claimant was going on about and it is clear that he did not understand this himself. He merely referred to someone saying that there was "a competitor or something". Anyway, the claimant said this after Mr Southgate told him that he was dismissed and why. Mr Southgate did not include this reference in his outcome letter.

30. The claimant submitted an appeal dated 3 May 2019 sometime later [HB97-98], which the respondent said was sent out of time. Nevertheless, Ms Josephine Adeyekuw said his appeal would be heard in any event [HB102]. It is difficult to understand the grounds of appeal, but we believe the claimant appealed on the following basis: (1) a comparator, Dilan Hendrin, had not been dismissed in similar circumstances; (2) proper process had not been followed in respect of the interview of his witness [Mr Hassan] and (3) he asked for clemency.

31. The appeal hearing was chaired by Mr Andy Corbett, Commercial Delivery Director. The claimant's appeal was heard on 4 July 2019. The appeal outcome decision rejecting his appeal was sent on 11 July 2019 pages [HB105-106].

32. In respect of Mr Hendrin's case, Mr Corbett said that there were clear similarities however Mr Hendrin had no previous disciplinary offence, and was therefore given a penalty just short of dismissal, and was transferred to another garage. Mr Corbett said that in the claimant's case, the claimant was given a written warning for an offence that could have been construed as gross misconduct less than 1 month before and that this warning was live on his file at the time of the new offence. He said that this was the material difference between the 2 cases.

33. By the time of the appeal hearing, the claimant contended that the breach of procedure in the original hearing was that Mr Southgate did not view the CCTV of the altercation and the claimant was not satisfied with this. Mr Corbett said that the CCTV made no difference, it did not have any sound recording so Mr Southgate did not believe that it added any value to the hearing as the claimant had admitted that there had been an

altercation and that this had also been confirmed by various statements. This was sufficient for his decision.

34. Mr Corbett believed that the claimant benefited from clemency from Mr Newcombe's decision because the stated offence was gross misconduct, and the claimant could have been dismissed for that.

35. Under the circumstances Mr Corbett regarded the claimant's summary dismissal to be correct.

36. Following the dismissal, it transpired that Mr Hendrin had been subject to a previous disciplinary warning and this information came out at the disclosure stage of the process. In addition, during proceedings the claimant described himself as being of black African origin. It transpired that Mr Hendrin was not a white employee as contended by the claimant, he was of Kurdish ethnic origin. The claimant did not know Mr Hendrin; he said he assumed that Mr Hendrin was a white employee, and he informed the Tribunal that he accepted that Mr Hendrin was Kurdish. For completeness, the claimant was from Sudan, which is in north-east Africa. He is an Arabic speaker, which is the second official language of Kurdistan.

Our determination

37. The allegations against the claimant were serious. The respondent owed a duty of care to all of its employees and any threats to harm an employee would usually lead to a disciplinary hearing. We scrutinised the original decision to dismiss and find Mr Southgate conducted the disciplinary process in a fair and impartial manner:

    a. The claimant was informed of the complaints against him and his right to be accompanied.

    b. The claimant was informed that due to the serious nature of the allegations, he may be dismissed.

    c. The claimant was given the opportunity to call witnesses. Indeed, his disciplinary invitation letter specifically said: "Should you wish to call any witness please let me know so this can be arranged". The claimant did not notify the respondent in advance of the disciplinary hearing of the name of the witness he wished to call, i.e. Mr Hassan. When this was brought up at the hearing, the claimant could not proffer any answer as to why his witness, Mr Hassan had failed to attend. We note that the claimant elected to continue with the disciplinary hearing in any event.

    d. Mr Southgate gave the claimant the opportunity to make representations regarding the allegations against him. He adjourned the hearing to carry out further investigations, specifically speak with Mr Hassan.

    e. The claimant was informed of the disciplinary outcome at the reconvened hearing and this outcome was confirmed in writing with the right of appeal.

38. So returning to the list of issues in respect of the dismissal. The claimant received a previous written warning in March 2019 after he spat at a member of the public and

displayed behaviour which brought the respondent into disrepute. The warning remained live at the time of the claimant's dismissal and indeed the warning was just over a month old when the claimant became involved in a further, similar but more serious incident.

39. In April 2019, the claimant verbally abused his manager and threatened his supervisor, which included a threat to kill him. The claimant admitted the allegations in part and admitted that he had lost his temper and had threatened to teach a colleague a *"lesson he would never forget".* Mr Southgate determined It that this was a serious threat. The claimant was a relatively new employee and his conduct demonstrated that a pattern of behaviour was emerging whereby the claimant would lose his temper and display aggressive behaviour.

40. Mr Southgate followed a substantially fair process as set out above. Mr Southgate assessed the conflicting accounts. He rejected a significant part of the claimant's case, but his task was to hear all versions and come to a conclusion as to what he believed happened. In preferring the accounts of others, Mr Southgate set out his reasons why, which were logical and appropriate. He came to a conclusion that the claimant's conduct was sufficiently serious to justify his dismissal.

41. If the less favourable treatment is the claimant's dismissal, has the claimant proved facts from which, in the absence of an adequate explanation, the Tribunal could conclude that the respondent had committed unlawful discrimination? We say no. there was nothing in the manner in which the claimant was disciplined that raises our concern so the burden of proof has not shifted in respect of this case.

42. Mr Southgate did not know of Mr Hendrin's circumstances, so the existence of this comparator was not relevant at this stage.

43. So far his decision to dismiss, we regard Mr Southgate's decision as appropriate in the circumstances.

44. Despite the fact that the claimant's appeal was submitted late, the respondent processed the appeal in order to allow the claimant the opportunity to raise any concerns regarding the disciplinary process. In addition, the claimant changed his grounds of appeal and Mr Corbett engaged with these modified appeal grounds. Again, the claimant was informed of his right to be accompanied and Mr Corbett gave the claimant the opportunity to outline his grounds of appeal in full. Following the hearing, Mr Corbett carried out a full investigation regarding the claimant's grounds of appeal, including holding a discussion with Mr Southgate and investigating the circumstances of the alleged comparator.

45. Mr Corbett addressed the concern regarding the witness during the hearing. Mr Hassan was interviewed by telephone, rather than face-to-face. We do not see any unfairness or breach of process in this. Indeed, if the claimant wanted his witness at the hearing, then he should have responded to the disciplinary hearing invite letter.

46. Mr Corbett carried out an investigation regarding the CCTV and found that Mr Southgate had, in fact, reviewed the footage and had determined that it did not have any evidential value, so the claimant was wrong on this point also.

47. Mr Corbett carried out an investigation regarding the circumstances of Mr Hendin's disciplinary penalty. Mr Corbett said that he was able to find the disciplinary outcome letter on the computerised system [HB138] and he printed off a copy. He said that he noticed that the disciplinary officer was Mr Newcombe who was at the bus garage that day. Mr Corbett went to speak to Mr Newcombe who explained to him the background and the circumstances of Mr Hendin's the bad conduct. Mr Newcombe's disciplinary letter to Mr Hendin said:

> I informed you that the above did constitute gross misconduct, but due to your good employment record, I issued you an award short of dismissal, which was a Final Written Warning and transfer to Shepherd's Bush garage…

48. Mr Corbett said that the reference to a "good employment record" was a reference to a clean disciplinary record, that this phase had a universal meaning and that he used this phrase also. Mr Corbett said that during their discussions Mr Newcombe did not say that Mr Hendin had a poor disciplinary record or that he had received a disciplinary warning previously. In fairness, Mr Corbett did not ask Mr Newcombe if the claimant had a clean record, but this was because he said he did not need to, as the wording of the letter was clear.

49. Mr Corbett addressed the severity of the sanction in the appeal outcome letter.

50. Mr Corbett considered the claimant's grounds of appeal in full and held the genuine belief that Mr Hendin had a clean disciplinary record and as such, was not a true comparator. However, on the face of it the claimant appears to have been treated differently/inconsistently to Mr Hendin and this is sufficient to shift the burden to the respondent under *Barton* and *Igen* to prove that unlawful discrimination was not to be treated as committed.

51. We note that Mr Hendin was of a different national origin than the claimant. The majority of the Tribunal believes that Mr Corbett has put forward a credible and honest explanation as to the reasons why there was a difference/inconsistent treatment between the claimant and Mr Hendin – it was down to a genuine and honest mistaken belief as a result of Mr Corbett not requesting the full set of paperwork detailing Mr Hendrin's disciplinary record. Mr Corbett said that he would ordinarily have requested the full personnel file and considered the claimant's personnel file. However, on this occasion he found the disciplinary letter on the system (which was not in itself unusual) and because Mr Hendin's disciplinary officer – Mr Newcombe – was in the same building as Mr Corbett, he spoke directly with him. The disciplinary outcome letter made reference to Mr Hendin's good disciplinary record and Mr Corbett did not think to raise this with Mr Newcombe.

52. It is on this point that the Tribunal split. The majority accepted the reference to "a good employment record" as being a generally accepted indicator that Mr Hardin had a clean disciplinary record. The minority member did not accept this.

53. The claimant did not accept that Mr Corbett had made an honest mistake. He said that it was a deliberate attempt to treat him less favourably. The claimant could not point to any reason why Mr Corbett would treat him differently to Mr Hendin because of his

race, particularly as neither had met Mr Hardin. Importantly, the claimant confirmed that prior to the appeal hearing he had not had any dealings with Mr Corbett.

54. The minority member of the Tribunal believed that Mr Corbett was sloppy and that his departure from his established procedure of reviewing the personnel file was inappropriate. The minority member believes that Mr Corbett has not satisfied him that this would not have happened to a white employee.

55. The majority view is that there we accept Mr Corbett's explanation backed by the contemporaneous documents. The majority is satisfied that the respondent has discharged the burden that unlawful discrimination was not committed, particularly in the light of paragraph 53 above.

56. Therefore, the claimant has not established facts from which, in the absence of an adequate explanation from the Respondent, the Tribunal can infer discrimination.

Summary

57. By a majority view, we reject the claims race discrimination. Proceedings are now dismissed.

Employment Judge **Tobin**, 21 March 2022

RESERVED JUDGMENT, REASONS & BOOKLET
SENT TO THE PARTIES ON

.....22 March 2022.....

.....GDJ……..
FOR THE TRIBUNAL OFFICE