

THE INDUSTRIAL TRIBUNALS

CASE REF: 1490/17IT

CLAIMANT: Winnie Van Der Merwe

RESPONDENT: UHY Hacker Young Fitch Limited

DECISION

The unanimous decision of the tribunal is that the respondent unfairly dismissed the claimant and discriminated her on the grounds of her sex. The claim for race discrimination fails.

Constitution of Tribunal:

Employment Judge: Employment Judge Sheils

Members: Mr P Sidebottom
Mrs F Cummins

Appearances:

The claimant was represented by Ms Suzanne Keenan, MKB Law.

The respondent was represented by Mark Mason, Mark Mason Employment Law.

THE CLAIM

1. On 13 March 2017 the claimant lodged claims of race discrimination, sex discrimination, unfair dismissal (automatic and substantive), unlawful deduction from wages and victimisation.
2. In their response of 26 April 2017, the respondent denied the claimant's claims in their entirety. In particular, the respondent denied that they unfairly dismissed the claimant and denied discrimination. The response indicated that the respondent had dismissed the claimant fairly because her conduct and performance had made it impossible for the respondent to continue to employ her and her dismissal was in no way related to her race, or the fact that she was pregnant.

3. The claimant also claimed unauthorised deduction of wages in respect of a contribution of money taken from her wages to pay for the water cooler. It was accepted by the respondent that this was the case and that they had no written consent from the claimant to do so.

WITNESSES

4. The tribunal was provided with a witness statement bundle, incorporating the witness statements of the claimant, her witness Mrs Anne Mawhinney, and the witness statements for the respondent, which were Mr Michael Fitch, Mr Ian Lundy and Ms Louise Cahill.
5. The tribunal also heard oral evidence from each of these witnesses.

DOCUMENTS

6. The tribunal received two lever arch files, one of nearly 400 pages comprising documents relating to the facts of the case and the second, containing the following:

- (1) Legislation

- (a) relevant sections of the Employment Rights (Northern Ireland) Order 1996;
- (b) the Employment (Northern Ireland) Order 2003, Schedules 1-6;
- (c) relevant Sections from the Sex Discrimination (Northern Ireland) Order 1976;
- (d) Race Relations Order (Amendment) Regulations (Northern Ireland) Order 2003;
- (e) the Race Relations (Northern Ireland) Order 1997.

- (2) This lever arch file also contained relevant case law:-

- (i) **Rogan and South Eastern Health and Social Care Trust [2009] NICA;**
- (ii) **Jill Simpson v Castlereagh Borough Council** (Ref: GIR9206, delivered 25/March/14);
- (ii) **Muir Sweeney Ahern v Western Health and Social Care Trust (Case Ref 1470/16);**
- (iv) **Efobi v Royal Mail UKEAT/0203/16;**
- (v) **E McDonald v Advocate General for Northern Ireland;**
- (vi) **Pierce v Governing Body of Mayfield School [2003] UKHL 34;**
- (vii) **Crawford and Another v Suffolk Mental Health Partnership NHS**

Trust [2012] EWCA Civ 138;

(viii) **London Borough of Islington v Ladelle and Liberty EAT [2009] IRLR 154;**

(ix) **Derbyshire v St Helen's Metropolitan Council [2007] ICR 841.**

7. This latter bundle was prepared by the claimant's representative and was gratefully received by the tribunal.

BACKGROUND

8. The claimant claimed that she had been unlawfully treated on the grounds of her pregnancy and / or her race in relation to misconduct proceedings taken against her in relation to a complaint made against her by a customer, Andrew Buckley, about emails she sent to his clients which he described as illiterate, alleged Unsatisfactory Conduct in relation to poor time keeping including not being back at her desk at 1.30 on Monday 10 October 2016 and arriving late for work on Tuesday 13 October 2016.
9. The claimant stated that these disciplinary issues were taken against her because the respondent had learned of her pregnancy and was the start of them trying to get rid of her.
10. The respondent denied that and, in particular Mr Fitch, stated that at the time of the first disciplinary meeting on the 14 October 2016 he was unaware of the claimant's pregnancy.
11. The claimant also claimed that she was unfairly and unlawfully treated on the grounds of her pregnancy and or race in relation to her dismissal in January 2017.
12. The claimant's dismissal occurred on 18 January 2017. When she returned from a period of annual leave and pregnancy related sick leave on the 18 January 2017 she was refused admission to the office and advised that she had been suspended, without explanation, except to be told that there were conduct issues pending. She subsequently received a letter inviting her to a disciplinary hearing to answer allegations of misconduct in relation to undelivered cheques and unfollowed-credit requests allegedly found in the claimant's desk and other alleged shortcomings in the manner in which she conducted her work. The claimant was subsequently dismissed by letter dated 26 January 2017.

RELEVANT FINDINGS OF FACT

13. The claimant, who was 40 at the time of the dismissal, is a white South African woman who was employed on a temporary basis by the respondent in May 2015 as a Temp. She was appointed to the permanent position of Accounts Assistant, assisting the Financial Controller on 3 August 2015. The claimant started training as an Accounts Technician and she replaced the Credit Controller, Mrs Anne Mawhinney, when she was off on long-term sick absence.
14. On Mrs Mawhinney's return the claimant sought a new job elsewhere and found one quite quickly and was in this job for one day when Mr Paul Flynn, an accounts manager with the respondent, telephoned her and offered her permanent

employment with them. He praised her work and said that the clients were very happy with what she had achieved in her previous months there. The claimant commenced her permanent position on 3 August 2015 and worked closely with Mr Flynn.

15. The claimant stated that in December 2015 Mr Fitch, a partner in the respondent's company, advised her that due to budgetary needs one of two people had to be made redundant and that the choice was between her and the receptionist. He informed her that they had decided to retain her as she could do accounts work. The claimant stated that she was so relieved that she had not been made redundant she did not complain about being regarded as on the same level of work skills as a receptionist.
16. The claimant stated that the previous receptionist had told her, and others, that she was losing her job because of her high level of sick absence but that Mr Fitch was covering it up as a budgeting issue. The claimant stated that the receptionist had also told her that she had been to see a solicitor and that Mr Fitch had been told that he could not recruit for a new receptionist for a year.
17. Mr Fitch refuted this and stated that on Mrs Mawhinney's return to work he decided that the level of work did not require the claimant, Mrs Mawhinney and the receptionist and he decided to do away with the receptionist position. The claimant was assigned to the receptionist's work station and was told to use half her working days working with Mr Flynn on two accounts, one called William Yeoward and a new account called MEUC, and the other half of her time doing administrative duties, which included doing the post. During this period the claimant was also on secondment training to be an accounts technician.
18. The claimant stated that doing the post along with her other duties became very onerous and time consuming. She was supposed to be assisted by another employee, Sandra, but was left to do it by herself for a period of time after Sandra's departure in February 2016 and before the appointment of another employee, Amber Leigh.
19. She stated that she often complained about the massive amount of work involved in doing the post and the time it took to complete it until it was agreed that staff would come to her desk to get their more urgent mail themselves. The claimant stated that she was also required to go to the bank which involved a 30 minute round trip about three times a week. She stated that on her return she would often find papers left on her desk by staff for clients to collect or get signed.
20. In July 2015 the claimant commenced IVF treatment. Her appointments were at the Royal hospital every other morning and she went straight to work afterwards. She stated that she was thus usually very early for work. The claimant became pregnant in August 2016. She stated that she told Mrs Mawhinney her news immediately and that she told Mr Flynn and Colleen McCrory some time later but asked them to keep it quiet as she was in the early stages and wanted to keep it private.
21. When the claimant was 8 weeks pregnant, which the claimant stated was on a date in early October, she told her news to Louise Cahill, who was not a Human Resource manager but assisted Mr Fitch with HR matters including, but not limited to, recruitment, staff planning and allocation, and staff leave. The claimant showed

her a letter inviting the claimant to attend a scan on the 31.10.2016 and stated that Ms Cahill said she would make a copy of it and return it to her.

The first Disciplinary Meeting, 14 October 2016

22. By letter dated 13 October 2016 the claimant was invited to attend a disciplinary meeting the next day to discuss allegations in respect of a complaint against her by a customer about the quality of her emails and her timekeeping. These allegations were set out in the letter as:-

“Alleged misconduct

Complaint from Andrew Buckley on 12 October 2016 with respect to illiterate and careless emails being sent out on behalf of MEUC Limited.

Alleged unsatisfactory conduct

Poor timekeeping including not being back at your desk at 1.30 pm on Monday 10 October 2016 and arriving late for work on Thursday 13 October 2016.”

The letter added:

“Depending on the facts established and the possible consequences arising from this meeting might be: (1) alleged misconduct: formal written warning; (2) alleged unsatisfactory conduct: verbal warning”.

The claimant refuted both these allegations.

The meeting was conducted by Mr Fitch, Ms Cahill was present as a note taker. The claimant was accompanied by a colleague.

Alleged Misconduct

At the meeting Mr Fitch produced a number of emails. One was an email to one of the firms' clients, MEUC, a firm owned/run by Mr Andrew Buckley. The actual recipient of the email was a third party client of theirs who had expressed surprise that the email had been titled **“INVOICE 60 DYAS OVERDUE!!!”** Mr Buckley's first complaint was in an email containing two words, *“not literate”*. He followed it with another email which read: - *“We just don't talk to our members like this. The lady in question (the email recipient) was quite shocked when she came up to our desk at the roadshow today”.*

23. The claimant stated that she told Mr Fitch that she had been having difficulties dealing with Mr Buckley, describing him as a bully. She told Mr Fitch that she was not the only staff member he treated that way. The claimant stated that Mr Fitch told her not to be too worried about it as she would not be sacked for this but that Mr Fitch subsequently stated that he would discipline the claimant because of her spelling and said, *“this is just not English”*. (Not recorded in the minutes). The claimant found this difficult to understand as she understood the complaint was because Mr Buckley had been annoyed at the tone of her invoice and not her spelling.
24. Mr Fitch then produced a number of other emails which purported to demonstrate

the claimant's poor level of literacy in relation to the quality of grammar and spelling. The claimant stated that she was Assistant Accountant and that English was not her first language. Mr Fitch asked the claimant to acknowledge that there had been a problem. He stated he wanted to help and emphasised to the claimant that this was an issue that could affect the reputation of UHY Hacker Young Fitch Limited.

25. At this point in the disciplinary meeting the claimant became upset and tearful and started a nose bleed. She broke down and left the room to go to the bathroom. She returned to the meeting ten minutes later and continued with the meeting.
26. Mr Fitch continued the disciplinary hearing in relation to the emails. He suggested a period of review where any emails sent by the claimant would be read by someone else before sending and the claimant agreed to this.
27. Mr Fitch told the hearing that he had regarded the customer complaint about the claimant's email to be very serious because the customer had threatened to remove his business and go elsewhere. However Mr Fitch acknowledged that this particular customer was known to write rude emails and make bullying phone calls to the claimant and other staff members and had caused the claimant upset and distress.

Alleged Unsatisfactory Conduct

28. Mr Fitch stated that he had become increasingly aware that the claimant's timekeeping had fallen below acceptable standards. He stated that he had been monitoring the claimant's time off since 2015 and noted that the claimant was in the habit of taking unapproved days off and that he had spoken to her about this in September 2016. The claimant stated that she did take unpaid leave but not without approval.
29. However this issue was not the subject of the disciplinary hearing. This related to two specific incidents where Mr Fitch stated that he had noticed the claimant himself being late to work on an occasion (13 October 2016) and being late back from lunch on the day Mr Fitch had been unable to access the office, (10 October 2016).
30. The claimant stated she was not happy at all with these complaints of unsatisfactory conduct. She said that she was not the worst offender in relation to time keeping and was unhappy at being singled out. She said that on occasions when she was late, she told her line manager Mr Flynn and made up the time.
31. She also stated that she did not really take a lunch and on the day to which Mr Fitch was referring, she had not been at her desk by 1.30 pm because a customer phone call had occupied her until 1.20 pm when she had rushed to the kitchen to get her lunch. The claimant told Mr Fitch that he had embarrassed her by speaking to her angrily in front of the other staff members who had been present. At this point Mr Fitch apologised for having done this.
32. The claimant went on to say that although she was the first person to answer the phone and the door she would like her role made clear as she was not employed as a receptionist. The claimant also told Mr Fitch that she felt that was being made an example of and felt that she was being watched but did not know why. Mr Fitch said that everyone was being watched and that all members of staff needed to be more diligent about time keeping.

33. The outcome of the disciplinary was that the claimant was given a “first formal verbal warning” for unprofessional emails and arriving late to work on Thursday 13 October 2016. The claimant was advised that this verbal warning would be placed in her personnel file but would be disregarded for disciplinary purposes after a period of 12 months provided her performance reached a satisfactory level. The letter added:

“the following improvement is expected: that you ensure your emails are reviewed by a third person and you learn to improve your grammar and spelling until we have confidence that only professional emails will be sent out.”

34. The letter also advised her that it had been found that she had been late for work on 13 October 2016 and late back to her desk on Monday 10 October 2016 and that it was expected that she would thereafter improve her time keeping, work a 7.5 hour day between 9am and 5pm and breaks exceeding 30 minutes required to be made up outside these normal working hours.
35. Shortly after this hearing Mr Fitch sent a memo to all staff reminding them that the working hours were 37.5, 9 to 5 with a 30 minute unpaid break each day. It went on to state:

“If you take longer than 30 minutes break during the day for lunch, coffee/tea, toilet, social media, private texts and telephone calls or any other breaks you need to ensure the working time is made up before 9am or after 5pm to ensure that you work 37.5 hours a week”.

36. This email caused a stir in the office. Of particular concern to the claimant was the reference to toilet breaks as these were time consuming in that the toilets were situated on another floor. She stated that her pregnancy increased her need for toilet breaks and she felt that the reference to them was targeted at her.

Alleged Discrimination

Pregnancy and Race

37. The claimant claimed that these disciplinary matters were taken against her on the ground of her race and pregnancy with a view to her eventual dismissal to avoid having to employ her throughout her maternity period and pay her maternity pay.
38. The respondent claimed that the claimant’s standard of English was insufficient and needed monitoring. They also claimed that they were not aware of the claimant’s pregnancy at the time of the first disciplinary meeting.
39. The tribunal rejects the respondent’s case on both points. While accepting that the respondent was entitled to have correspondence between employees and customers written to an acceptable standard and perhaps in a manner less direct than the email the claimant sent on one occasion, the tribunal concluded that the respondent took advantage of the claimant’s race by unnecessarily exploiting the fact that English was not her first language.
40. The claimant had been working to an acceptable standard for over a year prior to

this without complaint. She spoke and wrote English well enough to do this job and to study for her accounting course. The typographical error was consistent with other similar errors in other email exchanges throughout the company.

41. The tribunal also noted that the company collected outstanding debts using email and as such the company tone was already informal and the contents almost chatty. The claimant's email, although forthright, was not that much out of line with the norm.
42. The tribunal noted the respondent's evidence referred to an alleged problem regarding the claimant's timekeeping and an issue regarding her alleged tendency to take periods of unpaid leave. However, the tribunal noted that the respondent confirmed that they had no timekeeping records and produced no documentation or other evidence to support either of these issues.
43. Mr Fitch claimed not to be aware of the claimant's pregnancy on or before 14 October. He claimed that after the meeting Ms Cahill suggested the claimant might be pregnant on the basis of the nose bleed the claimant had suffered during the disciplinary meeting which they claimed was indicative of a possible pregnancy. Ms Cahill's witness statement made no mention of the nosebleed or having told Mr Fitch that this had led her to think that the claimant might be pregnant. It was at the tribunal hearing that Ms Cahill stated that she had mentioned it to Mr Fitch and she claimed to have done so a few days after the disciplinary hearing.
44. The tribunal did not accept the evidence on this. The tribunal did not accept that Ms Cahill had "diagnosed" the claimant's pregnancy from her nosebleed. This story stretched credibility to breaking point. The tribunal also concluded that if this remarkable diagnosis had been the case, Ms Cahill would have included this in her witness statement.
45. The tribunal thereby concluded that it was more likely that the respondent knew the claimant was pregnant well before the disciplinary proceedings on the basis that it was a small company and news, however confidential, travels fast. The tribunal accepted the claimant's evidence that the subsequent email was targeted at her but also concluded that it was a smokescreen, designed to support the spurious allegations of the claimant's poor time keeping.

The Second Disciplinary

46. The claimant continued to work with Mr Buckley whose correspondence with her she found distressing. On one occasion a colleague had to step in to advise Mr Buckley that the claimant was following his instructions fully but that the software systems were incompatible. On 14 December 2016 the claimant emailed Mr Fitch and reported the many episodes of distress he was causing her. Ms Cahill also raised the matter with Mr Fitch and Iain Lundie and told them that both the claimant and Coleen were receiving upsetting emails from this man on a daily basis. She advised them that the claimant felt she was no longer able to deal with him.
47. The claimant was particularly distressed because of Mr Buckley's previous complaint against her and she feared Mr Fitch would discipline her again. Her distress was such that she ended up on anti-anxiety medication and was told to take two weeks off on sick leave. Again, she feared Mr Fitch's reaction to this and her stress continued. The claimant stated that her pregnancy was not without its

difficulties and that Mr Fitch was partly responsible for this.

48. Mr Fitch rang the claimant and satisfied himself that the claimant had been supported in her distress and had calmed down. He told the claimant that he would meet her on his return to the office the next day, but the claimant went on sick leave that day and the meeting did not happen.
49. The claimant's sick leave overlapped with her planned annual leave. She was allowed to take 28 and 29 December 2016 as unpaid leave to facilitate her travelling arrangements. Mr Fitch claimed that he had accommodated her request for this out of consideration for her pregnancy. He also stated that several attempts were made by himself and others to enquire after the claimant's state of health around 19 December 2016 but there was no word from her. He stated that he had sent her flowers on 22 December which could not be delivered and that he took them round to her house personally on 23 December 2016 but that she was not at home. He stated that he sent her an email about the flowers and another on Christmas Eve but got no reply. The claimant denied receiving anything from the respondent.
50. However, the tribunal concluded that Mr Fitch's claim that he was concerned about the claimant was undermined by his subsequent actions. His evidence was that he had noticed that the claimant's email to him was in an email chain which had not been approved, as per the agreement at the first disciplinary. He concluded that she had failed to follow a management instruction that would have protected her own and the firm's reputation.
51. Mr Fitch went on to state that after the disciplinary and taking account of the claimant's view that receptionist duties were not part of her job, he decided to create a new post of Office Manager to incorporate the claimant's previous administrative or receptionist duties. He stated that he used funds generated by the recent retirement of another member of staff and set in train the recruitment of an office manager/receptionist.
52. In December he appointed the new employee, Vicky Blades, who was introduced to the staff at the Christmas party on 16 December 2016. Ms Blades commenced her work early, providing cover for the claimant over the Christmas period and moving the claimant's workstation from the reception desk to another on the floor.
53. The respondent stated that Ms Blades discovered a number of unposted and outstanding letters, documents and cheques in the reception desk, allegedly abandoned there by the claimant. Amongst these was a cheque for a customer dated February 2016 which the respondent claimed they subsequently forwarded to that customer in December 2016 and a final statement of accounts for the year ended 30/9/2015. He stated that he recalled Ms Cahill looking for these accounts in early 2016 and that she had had to re-issue them.
54. The respondent then appeared to have investigated other aspects of the claimant's work and made a number of adverse discoveries in relation to it. They decided that on her return to work she would be suspended.
55. The claimant was due to return to work on 18 January 2017. The night before her return Ms Mawhinney contacted the claimant to advise her that Ms Blades was now appointed and was seated at what had been the claimant's desk. Ms Mawhinney said she wanted to avoid the claimant any embarrassment by sitting in her usual

seat and then being asked to move.

56. When the claimant arrived to work on 18 January 2017 she was greeted at the door by Mr Lundie and Ms Cahill who refused her permission to enter the office, even to collect her personal items. She was escorted to the Board room where Mr Lundie advised her she had been suspended. Mr Lundie refused to tell the claimant any reasons for this but said they would be put in a letter and sent out to her. In his evidence Mr Lundie stated that he did not really know what to do in the circumstances but thought it would be better to get the claimant off the premises.
57. The claimant received a letter from Mr Lundie dated 17 January 2017, referring to her suspension which occurred on 18 January, advising her that matters of her performance had given cause for concern which required a full investigation and -on completion of the investigation she would be provided with the collated investigation material and thereafter a disciplinary hearing would be arranged to decide if disciplinary action would be justified.
58. However, the claimant received a letter dated 18 January 2017 from Mr Fitch inviting her to a disciplinary hearing on 23 January 2017 to discuss matters relating to her credit control work, the discovery of documentation in her desk and her failure to have all her emails reviewed in line with the instruction to do so after the first disciplinary process.
59. The claimant attended this meeting, denied all the charges and struggled to defend herself without access to documents and systems. She stated that she and Mrs Mawhinney had drafted template emails which she had used and got Mrs Mawhinney to check most of her other emails, but she had not thought she needed day to day emails checked. Mrs Mawhinney's evidence supported the claimant on this. Mr Fitch concluded the meeting by advising the claimant that he would complete his investigation, which could result in dismissal, that she would receive another letter and that she would have a right of appeal. The claimant then received a letter dated 23 January 2017 from Mr Fitch summarily dismissing her and offering her the right to appeal.
60. The claimant lodged her appeal which was heard by Mr Lundie in the afternoon of 16 February 2017. The claimant was accompanied by Mrs Mawhinney. The claimant and Mrs Mawhinney stated that Mr Lundie had been drinking, with the claimant stating that he was drunk. Ms Cahill stated that Mr Lundie had arrived late and was flustered but she could not recall noticing any smell of alcohol.
61. Mr Lundie stated that he had been for a business lunch at licensed premises but had not been drinking. He stated that although he was nervous about the appeal meeting he had been delayed getting away on time by a personal friend who told him that his serious illness had returned, and Mr Lundie had not felt he could rush off.
62. The appeal proceeded, and matters were discussed at length, but it is not necessary to go into the details as the claimant never received a letter of outcome from her appeal. Mr Lundie stated that due to pressure of work he was unable fully to investigate the appeal. The emails were voluminous, and he had difficulty arranging meetings with people to interview them. He stated that he did not manage to communicate the appeal outcome before his own departure but sent a draft outcome letter to a Human Resource advisor, Catriona Morgan, for comment.

A draft undated letter was discovered to the claimant during these proceedings.

63. The tribunal accepted Mrs Mawhinney and the claimant's evidence that Mr Lundie had been drinking before the appeal hearing which cast doubt over Mr Lundie's credibility. The tribunal did not accept that he had drafted the appeal outcome letter. The respondent was silent as to why the letter had not been sent to the claimant after Mr Lundie's departure but simply agreed that the appeal process had not been completed.
64. A number of emails were exchanged between Mr Lundie and Ms Morgan which evidenced the fact that Mr Lundie was involved in the entire process which led to the claimant's dismissal. Mr Lundie contacted Ms Morgan on 30 December 2016 asking her for guidance around a staff issue. Ms Morgan replied on 3 January 2017 and in a subsequent email on 13 January 2017 Mr Lundie wrote to Ms Morgan to the effect that they, (the respondent), had an employee (the claimant) with competence issues which they believed could not be overcome and they would have to start proceedings to end employment. He told Ms Morgan that they had not investigated these matters with the employee nor had they been discussed.
65. In the email Mr Lundie set out some of the respondent's concerns and stated that the respondent believed that they amounted to gross misconduct and that there was a breach of trust and confidence. He told Ms Morgan that they could not trust the employee to complete the work she was hired to do. Mr Lundie asked Ms Morgan for her specific advice on how to handle the claimant's return to work. It transpired that Ms Morgan had drafted the letter of suspension and forwarded to Mr Lundie on 17 January 2017.
66. In a later email dated 23 January 2017 Mr Lundie advised Ms Morgan that he expected to receive Michael's (Mr Fitch's) findings the next day but as he had not been involved in the process he would let her know the outcome.
67. The tribunal accepted that while Mr Lundie had not been involved in the disciplinary meeting he had otherwise been involved in the disciplinary process from the outset, seeking advice on how to end the claimant's employment before any investigation had begun. The tribunal concluded that this fact undermined Mr Lundie's credibility as the person to conduct the appeal.
68. The tribunal also concluded that the emails between Mr Lundie and Ms Morgan undermined the whole disciplinary process. It revealed the respondent's clear intention to dismiss the claimant from the outset and that the so-called investigations and meetings were sham.
69. It is for the employer to show that he had a reasonable belief of the employee's misconduct, based on fact, that the employee is guilty of the misconduct and that that is the reason for the dismissal. However, such belief must be informed by a reasonable investigation, depending on the size and resources of the organisation.
70. The tribunal concluded that as the decision to dismiss the claimant was taken prior to any investigation that this requirement was not met. Therefore, the reason for the dismissal could not have been the allegations of misconduct.
71. The tribunal concluded that the only reason for the dismissal was the claimant's pregnancy. The tribunal concluded that although the respondent exploited the fact

that English was not the claimant's first language the respondent's treatment of her was wholly related to her pregnancy.

72. Accordingly the tribunal concluded that the respondent discriminated against the claimant on the grounds of her sex. The claim for race discrimination fails.
73. The tribunal orders a further hearing to determine the appropriate remedy/compensation and in particular to hear submissions in relation to the issue of contributory fault, as alleged by the respondent.

Employment Judge:

Dates and place of hearing: 17-20 October 2017 and 5 December 2017, Belfast.

Date decision recorded in register and issued to parties: