



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss C Craft

**Respondent:** Doncaster & Bassetlaw Teaching Hospitals  
NHS Foundation Trust

**Heard at:** Sheffield                      **On:** 6, 10-13 and 16-19 October 2017

**Before:** Employment Judge Maidment

**Members:** Mr D Fell  
Mr K Smith

## **Representation**

**Claimant:** Mr A Midgley, Counsel

**Respondent:** Ms B Clayton, Counsel

# JUDGMENT

1. The Claimant's complaint of unfair and discriminatory dismissal is well founded and succeeds.

2. The Respondent failed in its duty to make reasonable adjustments pursuant to Section 20 of the Equality Act 2010 in not allowing the Claimant to work night shifts in the women's operating theatre.

3. The Claimant was subjected to unlawful disability related harassment pursuant to section 26 of the Equality Act 2010 in

3.1 the Respondent's failure to alter her hours to avoid her working in mornings on 11 December 2015 by scheduling her to start a shift at 8.30am;

3.2 the Respondent failing to permit her to work nights in the women's theatre;

3.3 the Respondent failing to organise a phased return to work with an initial 50% reduction in shift length on 11 December 2015;

3.4 Mr Rowe stating on 7 August 2015 that he didn't think her condition of

endometriosis was a disability because it could be cured by a hysterectomy and oophorectomy;

3.5 Mr Rowe stating on 7 August 2015 that the Respondent was not a charity to pay people to sit at home;

3.6 Mr Rowe making inaccurate assumptions about the Claimant's likely future attendance when assessing whether to allow her to work nights in the women's theatre

3.7 the Claimant being required to indicate by 18 December 2015 whether she would return to work in the main theatre, failing which the Respondent would consider whether or not it could continue to employ her.

4. The Claimant's remaining complaints of disability discrimination fail and are dismissed.

5. The Claimant's complaints seeking damages for breach of contract and for the Respondent's failure to give her itemised pay statements pursuant to Section 8 of the Employment Rights Act 1996 are dismissed upon her withdrawal of them.

6. The Tribunal's determination of the Claimant's complaint of unlawful deduction from wages in respect of accrued but untaken holiday entitlement is adjourned to be determined at the Remedy Hearing listed below, unless resolved in the meantime between the parties.

7 This matter is listed for a Remedy Hearing to take place before the Employment Tribunal in Sheffield on Wednesday 21 and Thursday 22 February 2018. An award of costs arising out of an earlier Preliminary Hearing will also be determined at this Hearing.

Employment Judge Maidment

Date 20 October 2017