



EMPLOYMENT TRIBUNALS

Between:

Mr J Braithwaite
Claimant

and

Frank Kay (Nottingham) Ltd
Respondent

At an Open Attended Preliminary Hearing

Heard at: Nottingham

On: Thursday 29 March 2018

Before: Employment Judge P Britton (sitting alone)

Representation

For the Claimant:

Mr A Berk, Solicitor

For the Respondent:

Ms R Christou, Solicitor

JUDGMENT

1. The claims based upon disability discrimination pursuant to the provisions of the Equality Act 2010 are dismissed upon withdrawal.
2. The claims of unfair dismissal and breach of contract (summary dismissal without notice pay) will now proceed to a full hearing.
3. That hearing is hereby listed to be heard at the Nottingham Hearing Centre, 50 Carrington Street, Nottingham NG1 7FG before an Employment Judge sitting alone on **9 and 10 July 2018** starting at 10:00.
4. This Judge excludes himself from hearing the matter.

REASONS

1. This preliminary hearing was to determine whether the Claimant was a disabled person pursuant to Section 6 and Schedule 1 of the Equality Act 2010 at the material time: In other words ending with his summary dismissal on 14 July 2016. Before me was a bundle including inter alia his medical records.
2. Suffice it to say that it became abundantly clear that as maintained aggression being linked to his stated disability of clinical depression simply does not engage in this case and the parties know why. Thus it means that

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the Equality Act claim cannot sustain itself and Mr Berk has taken instructions and it is thus dismissed upon withdrawal.

3. However, I am of the opinion that there are clear triable issues on the unfair dismissal and breach of contract fronts; they will therefore proceed to trial. I hereinafter set out directions.

4. The Respondent reserves its position as to the costs of today's proceedings.

Directions

1. The trial bundle will be finalised between the parties by **28 April 2018**, the Respondent to have conduct of the same.

2. The date for exchange of witness statements is now **25 May 2018**.

3. By **22 June 2018**, the Claimant will provide an updated schedule of loss to the Respondent.

4. Finally, the parties will have agreed a list of issues to be put before the Judge at the commencement of the hearing.

Employment Judge Britton

Date: 17 May 2018

JUDGMENT SENT TO THE PARTIES ON

17 May 2018

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