



MOCK EMPLOYMENT TRIBUNAL

Claimant: Chrissie Sprockett
Represented by Miss Wright, solicitor

Respondent: Powell and McClusky Surveyors
Represented by Ms Brown, solicitor

Heard at: Arundel **On:** 22 March 2018

Before: Employment Judge Stevens
Mrs B Coughtrey
Mr R Walker

JUDGMENT

1. This is a claim of direct discrimination on the grounds of sexual orientation brought by the Claimant against the Respondent.
2. At today's hearing, we have heard evidence from the Claimant, Chrissie Sprockett, and from Kathy Flack on behalf of the Claimant, and evidence from Sam Rayner and Alex Powell on behalf of the Respondent.
3. We are required to decide whether the Claimant's sexual orientation was or formed part of the reason for her dismissal from her employment with the Respondent. In order to address that question, we need to ask whether the Claimant has established a prima facie case that the reason for the dismissal could be in part the result of her sexual orientation.

If she has done this, then the burden switches to the Respondent to establish on the balance of probabilities that the Claimant's gay sexual orientation formed no part of the reason for her dismissal.

4. The Respondent is a four partner firm of surveyors. The Claimant was appointed to assist one of the partners, Alex Powell. There was some confusion as to her job title, with documents which were in the bundle variously calling her a PA, a PA/Secretary and a Secretary. Her employment started on 3 January 2017 and her hours reduced at her request around the end of May 2017. She was dismissed on 18 August 2017.
5. The Claimant claims that her dismissal was because of her gay sexual orientation. On 1 August 2018 she sent an email to the Respondent's Office Manager, Sam Rayner, notifying her that her emergency contact and next of kin should be the person she now lived with, Jenna Powell. The Claimant believes that Sam Rayner would have concluded from this that she was in a same sex relationship, although in evidence Sam Rayner denied this. The Claimant also believes that Alex Powell would have been aware of this. He denies that he was aware of the Claimant's gay sexual orientation.
6. In essence we need to consider four key four key questions:
 - a) Who took the decision to dismiss?
 - b) When did they make that decision?
 - c) Did the person who made the decision know of the Claimant's gay sexual orientation?
 - d) If they did, then did that gay sexual orientation influence the decision to dismiss the Claimant to any material extent?
7. In answer to the question as to who took the decision to dismiss, we find that the decision was taken by Alex Powell with the agreement of his partners.
8. In answer to the question as to when the decision was made, it was clear to us that the decision had been made by Alex Powell at some point before the Respondent's Partners' Meeting which was held on 12 July 2017. The minutes of that meeting made that clear. His partners simply approved that decision.
9. In answer to the question as to whether Alex Powell knew of the Claimant's gay sexual orientation at that time, we find as a matter of fact that he did not. The first notification which the firm had and from which an inference could have been drawn about the

Claimant's gay sexual orientation was on 1 August 2017, nearly 3 weeks after the decision to dismiss had been recorded in the Partners' Meeting minutes. Although the Claimant and Kathy Flack suggested that the Claimant's sexual orientation was known around the office prior to 1 August 2017, we were not persuaded by their evidence on this point. We find that Alex Powell did not know of the Claimant's gay sexual orientation prior to the decision being made to dismiss the Claimant, or indeed at any time during her employment.

10. We did note that the Respondent's approach to Equality and Diversity training and to complying with the obligation to provide employees with written statements of their terms of employment was, to say the least, not a priority for them. The focus on compliance training on diversity matters was no more than about 15 minutes a year, and witnesses were unable to recall any particular details. However we are unable to infer from that, or the fact that there were no other openly gay employees working for the Respondent, that there was a prima facie case of sexual orientation dismissal.

11. For these reasons we conclude that the Claimant's gay sexual orientation was not a factor in the decision by Alex Powell to dismiss the Claimant, and therefore the Claimant's direct discrimination claim must be dismissed.

Employment Judge Stevens

22 March 2018