

Eric Smyth v Ryobi Aluminium Casting (UK) Limited

Disability discrimination proceedings brought in the Industrial Tribunal which settled on 26 February 2016.

Summary

The Claimant was employed as a manufacturing supervisor with Ryobi Aluminium Casting (UK) Ltd. He had worked for the Respondent between November 1996 and February 2016.

The Claimant believed that he was disabled person within the meaning of the disability discrimination legislation as he lives with dermatitis which was diagnosed in 1999.

In December 2014 the Claimant's manager informed him that he was to be transferred from the Kilroot to the Carrickfergus factory. The Claimant was concerned that the new role would involve him touching parts which had coolant and oil substances. The Claimant told the manager that previous experience with these materials had exacerbated his dermatitis. The Claimant alleged that the manager told him he did not care about his health and he didn't want a situation where other supervisors were coming to him complaining that they had to do tasks that he wasn't doing. The Claimant contacted Human Resources and he was referred to Occupational Health. The Claimant alleged that it was agreed that he would start his new position in January 2015 without the requirement of new duties, subject to the Occupational Health report.

On 5 January 2015 the Claimant was transferred to the Carrickfergus factory. On 29 January 2015 the Claimant met with an Accredited Specialist in Occupational Health, who recommended that he should not carry out tasks which exposed his skin to oil and coolants and that this adjustment would be long term.

On 28 April 2015 the Claimant alleged could not perform a task due to his dermatitis. He asked the Chief Engineer to help him. The Claimant alleged that the Chief Engineer asked him why he was there, why didn't he go and work somewhere else and suggested he could go across the road to a small castings factory. The Claimant asked him why he was saying that and alleged he responded that the Claimant had nothing to offer the department. The Claimant alleged that he reported this incident to his manager who told him he had already had a conversation with the Chief Engineer and nothing further was done.

On 22 June 2015 the Claimant was in the office and he asked an engineer to check one of the machines. He alleged that the engineer stormed out of the office and when the Claimant approached him again at the machine he stormed off. On 23rd June 2015 the Claimant alleged that one of the operators who he supervised told him that this engineer had said "We are going to get Eric out". On 24th June 2015 when the Claimant arrived for work an operator said "Here's our supervisor now" and this engineer replied "He's not a supervisor".

On 3 July 2015 the manager informed the Claimant that a complaint had been received that he was sleeping during his shift. The Claimant denied that this happened. At the investigation meeting on 9 July 2015 he found out it was the Chief Engineer who had made the complaint.

On 11 July 2015 the Claimant lodged a grievance against his manager and the Chief Engineer. He lodged disability discrimination proceedings with the Industrial Tribunal on the 27 July 2015.

On the 23 September 2015 the Claimant was advised that no further action would be taken against him in relation to the allegation that he had been sleeping during his shift. The Claimant lodged a further grievance on the 28 October 2015 because he believed that sanctions were being imposed on him with regards to his duties.

However, on the 4 November 2015 the Claimant was advised that further allegations had been made against him that he had been sleeping at work and he was suspended on full pay. He was escorted from the premises by his manager.

The Claimant alleged that he was being victimized as a result of his disability case and these allegations and his suspension were further acts of harassment of him as a disabled person. He believed that the Respondent's were trying to get rid of him.

The Claimant lodged another case with the Industrial Tribunal on the 2 December 2015. At this stage he still had not received the outcome of his July 2015 grievance. He later received a letter from the Respondents advising him that this grievance had not been upheld.

The Claimant attended a disciplinary meeting on the 4 January 2016 in relation to the allegations of sleeping at work

The Claimant's employment with the Respondent terminated upon settlement of his Industrial Tribunal proceedings.

In a conciliated settlement through the Labour Relations Agency, the Respondent paid the Claimant £30,000. The Claimant's employment terminated on 29 February 2016. The Respondent made no admission of liability. The Respondent agreed to provide the Claimant with a factual, written and signed reference. The Respondent affirmed its commitment to the principle of equality of opportunity in employment and to ensuring that its policies and procedures comply in all respects with the provisions of the Disability Discrimination Act 1995 and the Disability Employment Code of Practice. The Respondent undertook to meet with the Equality Commission to review the application of its policies, practices and procedures to ensure that they are effective and conform with the requirements of the Disability Discrimination Act 1995.