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PRESS RELEASE

Tribunal Rules That Company Should Have Made Reasonable Adjustment for Woman with Eye Problems

An Industrial Tribunal has awarded compensation of £11,852 to Celia Luisa Pereira da Costa, a disabled woman, who was dismissed by her employer, Summer Garden Salads Limited.

The Tribunal ruled that the company had unlawfully discriminated against her by failing to make reasonable adjustments as required by the Disability Discrimination Act and had unfairly dismissed her.

Ms. Da Costa, who was supported by the Equality Commission in taking her case before the Tribunal, has glaucoma and chronic eye difficulties. Her employer was aware of her disability.

Ms. Da Costa was employed as a Production Operative. Her work involved preparation of various vegetables including onions. In 2017 the company moved from use of dried or frozen onions to using fresh onions.

"I had no problem handling and cooking onions, but, when I was asked to help with peeling or chopping them, it caused me a lot of pain and discomfort in my eyes. I had to attend the eye clinic at the hospital and was off work," Ms. Da Costa said.

A letter from her doctor to the employer asked if she could be excused from peeling and chopping onions. The doctor's letter confirmed that she was fit to return to normal duties. After a number of meetings with Ms. Da Costa, the company gave her a letter confirming termination of her employment.

Ms. Da Costa said. *"I was very distressed by the decision to sack me. I felt I was being discarded after many years of loyal service as a result of a condition beyond my control. The only thing I could not do was peel and chop onions. I could do all of my other duties without any difficulty. I lost a job that I really enjoyed because my employer would not make simple changes which would have allowed me to continue in work."*

Ms. Da Costa believed that the company could have arranged for the peeling and chopping of onions to take place somewhere else within the production area and be brought to where she could use them or provided someone to help or assist her to peel and chop onions. The Tribunal accepted on balance that the adjustments: -

“would have been of little or no cost, and despite the small size of the undertaking any associated cost not disproportionate.”

The Tribunal accepted that *“no evidence was presented to support prohibitive cost, microbial cross contamination or absence of any safe area where chopped onions could have been left.”* The Tribunal decided that Ms Da Costa *“was unlawfully discriminated against because the company failed in its duty to make reasonable adjustments, instead proceeding to dismiss her.”*

“These are the kind of circumstances which the reasonable adjustment provisions in the Disability Discrimination Act were designed to deal with,” Mary Kitson, Senior Legal Officer at the Equality Commission said. “Relatively minor changes to the working environment can make a world of difference to someone who may otherwise find that they are, for all practical purposes, excluded from particular kinds of work. In this case, Celia Da Costa found herself out of a job which she enjoyed and valued, and this had a considerable impact on her. As the Tribunal has found, this was avoidable had adjustments been made to support her in carrying on work she had been doing satisfactorily for a number of years.”

Notes to Editor

- Link to [Tribunal Decision](#) (pdf)