

Supreme Courts



Mr P Still
113 Glebe Road
Whitburn
West Lothian
EH47 0AX

Court of Session
Parliament House
11 Parliament Square
Edinburgh
EH1 1RQ

DX 549306 Edinburgh 36

11 September 2012

Our Ref: YA/ Offices of Court
Your Ref Mr P Still

Dear Mr Still

Application for Leave to Proceed under Rule of Court 4.2(5) - You for Leave to Appeal under section 37(1) of the Employment Tribunals Act 1996

I acknowledge receipt of your letter and proposed application for Leave to Appeal dated 6 September 2012. Your letter and application were placed before The Hon Lord Doherty on 10 September 2012. His Lordship has, after due consideration refused your application to proceed without a duly authorised signature in terms of Rule of Court 4.2(5).

The reason for refusal is; The proposed grounds of appeal do not disclose an arguable case that the Employment Tribunal or the EAT erred in law.

His Lordships decision is final and not subject to review

Accordingly, your papers are returned.

Yours sincerely,

Miss Yvonne Anderson
Depute in Charge
Offices of the Court of Session

can be used in separate

The Lord Ordinary, having considered the foregoing application
leaves leave to proceed without a duty authorized

29/08/2012

FORM 40.2.

Signature in terms of Rule 4 (cont 4.2(5))
Signed

Form of Application for Leave to Appeal
in the Inner House Court of Session
Application

"J Raymond
Doherty"

FOR
LEAVE TO APPEAL.

under Section 37(1) of the Employment
Tribunals Act 1996, against the decision
of the employment Appeal Tribunal

by

Peter Stull,

(applicant)

113 GLEBE ROAD,
WHITBURN, WEST LOTHIAN
EH47 0AX.

against

Decision of judgement, refusal of Leave
to appeal, employment appeal Tribunal (Scotland)

① That on 9th August 2012, the employment appeal Tribunal
refused the application of the applicant for Leave to
Appeal, to the court of session against its decisions
of Rule 3(7) 4th October 2011, Rule 3(8) DATED
25th November 2011, ORAL DATED 18th April 2012,
dismissal of Appeal by Honourable Lady Smith for
want of insistence, Leave to appeal application 21st May
2012, order dated 26th June 2012, EAT PRESIDENT
HONOURABLE JUSTICE LANGSTAR, REFUSING CLAIMANT'S
APPLICATION FOR LEAVE TO APPEAL, A COPY OF THE DECISIONS
OF THE EMPLOYMENT APPEAL TRIBUNAL ARE PRODUCED
WITH THIS APPLICATION

② That the Reasons given by the employment Appeal
Tribunal (Scotland) for refusing Leave to Appeal are
set out in a copy of its decision produced with
this application

Leave to Appeal Application

③ That the reasons given by the employment Appeal tribunal (Scotland) for its decision 4th October 2011, Rule 3(7) - Rule 3(8) DATED 25th November 2011, and 18th April 2012, against which Leave to Appeal is sought are set out in the copy of the decisions produced with this application.

④ That the grounds on which the applicant seeks leave to appeal against the refusal of leave to appeal to the court of sessions are as follows.

(a) LADY SMITH AND HONOURABLE JUSTICE LANGTHORN IN HANDLING CLAIMANT APPEAL TO EAT, RULE 3(7) 4th OCTOBER 2011, WRIT ORDER 9th August 2012, BOTH VIOLATED CLAIMANT'S HUMAN RIGHTS ARTICLE 6(1) HUMAN RIGHTS ACT 1998, ECHR, The Right to A Fair trial,

(b) That Lady Smith and President Honourable Justice Langthorn ignored claimants few grounds of Appeal, along with factual documents, that were in hearing et bundle, against original et judgment 22 July 2011, signed by et Justice A claim to cover for judge clearly totally failed judgement of S111152/2010, Pats Steel & Tools Store Ltd + dress.

(c) CLAIMANT NUMBER OF COMPLAINTS RATION REASONS LADY SMITH HANDLING OF HIS APPEAL, THIS WAS RAISED IN WRIT TO PRESIDENT on 6th August 2012, that her judgement of Rule 3(7) DISMISSAL OF NOTICE OF APPEAL WAS WRONG, ALSO THAT EMPLOYER JUDGE SHOWN CLAIMS WAS A PARTNER IN LADY SMITH'S HUSBAND LEGAL FIRM SHEPHERD + WEDDEBURN FROM 2001 - 2004 WHEN SHE WAS APPOINTED AS ET JUDGE IN GLENBURGH.

Form 40.2 cont.
Leave to Appeal Application

(4) (d) President ignored this, and instead, put forward that Lady Smith was entitled to make that Rule 3(7) order and reasons given, both Lady Smith and President Justice Langstaff are in contempt of their own court by stating this, one corrupt justice causing for another?

Documents attached hereto,

Form 40.2. (cont)
Leave To Appeal Application

⑤ That the grounds on which the applicant seeks to appeal against the decision of the employment tribunal, Edinburgh of registered judgement 22/07/2011 ARE AS FOLLOWS.

grounds attached hereto,

⑥ That this application is made under Section 37(1) of the employment tribunal Act 1996 and Rule 40.2(2) OR 41.2(3) of the Rules of the Court of Session,

Court of Session under Rules of Court 4.2(5) applicant request. By applicant request the Deputy Principal Clerk of Session to place applicants application before a Lord Ordinary for Leave to proceed without the request signature

Schedule of Documents

(specify and list the documents in support of your leave to appeal)

① EAT, RULE 3(7) ORDER DATED 4th OCTOBER 2011

② EAT, RULE 3(8) ORDER DATED 25th NOVEMBER 2011

③ EAT, ORDER DATED 18th APRIL 2012, DISMISSAL OF APPEAL BY LADY SMITH, REASON FOR WANT OF INSISTENCE.

④ CLAIMANT LEAVE TO APPEAL APPLICATION DATED 21st MAY 2012, FOUR GROUNDS OF APPEAL, REGISTERED JUDGMENT 22 JULY 2011, ET/8/111153/10 PETERSTICE V TESCO STORES LTD + OTHERS.

⑤ EAT ACKNOWLEDGE RECEIPT OF LEAVE TO APPEAL APPLICATION DATED 22nd MAY 2012,

⑥ EAT ORDER DATED 26th JUNE 2012, EAT PRESIDENT REFUSED CLAIMANT LEAVE TO APPEAL APPLICATION REASONS FOR REFUSAL.

⑦ FURTHER REASON FILED BY LADY SMITH FOR HER DECISION TO DENY CLAIMANTS APPEAL FOR WANT OF INSISTENCE, DATED 19th JULY 2012

⑧ ORDER PRESIDENT JUSTICE LADY SMITH, CLAIMANT APPLICATION FOR REVIEW, LEAVE TO APPEAL TO COURT OF SESSION, REFUSAL, REASONS FOR 9th AUGUST 2012,

⑨ Complaints raised by claimant against Lady Smith, 11/5/2012 - 30/5/2012.

⑩ GROUNDS OF APPEAL, ET BEFORE DOCUMENTS, 8/111153/2010 PETERSTICE V TESCO STORES LTD, JUDGMENT 22 JULY 2011

LIST OF DOCUMENTS
FOR NUMBER ⑩

⑩

Schedule of Documents

①

(specify and list the documents in support of your leave to appeal)

LEADINGS	EMPLOYMENT TRIBUNAL HEARINGS BUNDLE, ET CLAIM	
	S/111152/2010, PETER STILL V TESCO STORES LTD, + OTHERS	PAGE NO ET BUNDLE
①	JUDGMENT REGISTERED 22 JULY 2011, SIGNED BY EMPLOYMENT JUDGE SUSAN A CRAIG, WRITTEN REASONS.	CONTAINS END OF THIS BUNDLE.
②	CLAIMANTS ET1, 9 th August 2010,	1 - 13
③	TRIBUNAL ORDER TO FURNISH WRITTEN ANSWERS 13/8/10	14 - 15
④	DDA COMPLAINTS QUESTIONNAIRE, 18/8/10	36 - 52
⑤	DDA RESPONDENT REPLY QUESTIONNAIRE) 22/8/10 ALONG WITH ET3, GROUNDS OF RESISTANCE DATED 2/9/2010,	74 - 83
⑥	CLAIMANTS REPLY TO FURNISH WRITTEN ANSWERS TO DDA QUESTIONS, 13/8/10 - 27/08/10	71 - 73
⑦	CASE MANAGEMENT ORDER, 1 st November 2010,	88 - 91
⑧	NOTICE OF PRE-HEARINGS REVIEW 3 rd November 2010	92 - 93
⑨	CASE MANAGEMENT ORDER, 28 th February 2011,	
⑩	PRE-HEARINGS REVIEW ORDER, 8 th April 2011,	104 - 106
⑪	NOTICE OF HEARINGS, 17/05/2011	108 - 109
⑫	ABSENCE TRACKER, S, Y, A, PETER STILL DATED 30/09/07 - 18/04/10,	119 + 120
⑬	CLAIMANTS, FURTHER + BETTER + PARTICULARS CASE MANAGEMENT ORDER, DATED 11/11/10	126 + 168

Schedule of Documents (2)

(specify and list the documents in support of your leave to appeal)

	EMPLOYMENT TRIBUNAL BUNDLE, ET CLAIM S/111150/2010, PETER STICE V TESCO STORES LTD 22/07/11. + OTHERS	Page No et bundle
	DOCUMENTS, POLICY + PROCEDURE, GRIEVANCES, SYA, APPALS RESPONDENTS POLICY INTERNAL, LEADING UP TO END OF APPEAL, INTERNAL COMPANY, 11 th NOVEMBER 2011, AT NO TIME WAS COMPANYS POLICY OR PROCEDURES FOLLOWED, AT ANY TIME,	
Γ BUNDLE I (NO)		
(31)	GRIEVANCE CHECKLIST, BULLY, HARASSMENT, 27/4/2010.	217-220
(32)	HEALTH INVESTIGATION FORM 20/03/2009	221-222
(33)	Attendance Review Meeting Checklist, 13/11/2009	223-226
(34)	HEALTH INVESTIGATION FORM) 13/12/2009	227-228
(35)	Attendance Review Meeting checklist, 31/12/2009	229-232
()	LETTER FROM P.T.E, ISOBEL COLLIE TO CLAIMANT. 12/01/2010, OCCUPATIONAL HEALTH APPOINTMENT.	233
(37)	HEALTH REFERENCE REPORT, 21/01/2010	234
(38)	MEDICAL REPORT REQUEST, 22/01/2010	235 + 236.
(39)	LETTER FROM CLAIMANT DOCTOR, MEDICAL REPORT SENT TO RESPONDENTS OCCUPATIONAL HEALTH NURSE DATED 28/01/2010.	237 + 239.
(40)	HEALTH REFERENCE REPORT, RESPONDENTS O, H, A, TO PERSONNEL, RESPONDENTS, LIVINGSTON. D.C DATED 01/02/2010.	240 + 241

Schedule of Documents ③

(Specify and list the documents in support of Leave to Appeal.)

FILE (NO) # BUNDLE	EMPLOYMENT TRIBUNAL BUNDLE, S/11150/2010, (CONT.)	ET BUNDLE PAGE NO
④①	LETTER FROM PERSONNEL, TO CLAIMANT, 04/03/2010.	242
④②	PROLONGED SICKNESS - CASE MAPPING, 12/03/2010	243 to 244
④③	Handwritten Prolonged - Absence. hearing notes DATED 12/03/2010.	245 to 246.
④④	Handwritten guidance, claimant to RESPONDENTS PERSONNEL, DUTY OF CARE, HHS, DIGNITY AT WORK., 21/03/2010, SUBJECT ACCESS REQUEST	247. to 248.
④⑤	Handwritten notes of Dignity work, D of CARE HEALTH + SAFETY GUIDANCE, 23/03/2010	249 to 250.
④⑥	Attendance Review Meeting checklist 26/03/2010, DISCIPLINARY, SYA,	251 to 254.
④⑦	Attendance Review meeting checklist APRIL 2010) SYA ABSENCE	255 to 256.
④⑧	Attendance Review meeting Checklist SYA, Absence, 21/04/2010	257 to 258.
④⑨	Letter TO CLAIMANT FROM PERSONNEL, DUTY OF CARE, HHS DIGNITY + WORK PRIVACY, REPLY TO PRIVACY DATE DATED 21/03/2010, DATED 23/04/2010, TO ARRANGE MEETING.	259
⑤⑧	HANDWRITTEN NOTES PRIVATE MEETING WITH CLAIMANT AND RESPONDENTS SHIRAZ MYR ALI MCDONALD, DUTY OF CARE, DIGNITY WORK HHS GUIDANCE, 27/04/2010	260 to 264
⑤①	Handdelivered letter 27/04/2010 CLAIMANT. TO ATTEND DISCIPLINARY, DISMISSING OFFICIAL, SYA, ABSENCE GUY HOWDENSON	265.

Schedule of Documents (4)
(Specify and list documents in support of Leave to Appeal)

Bundles (No)	EMPLOYMENT TRIBUNAL BUNDOLE, S/111150/2010, (CONT)	ET Bundle PAGE (No)
(52)	Handwritten notes of Attendance Review meeting, Shift mgr John Gilcrest, ARM SYA, 30/04/2010	266 to 272.
(53)	Attendance Review meeting checklist Shift mgr John Gilcrest, ARM, SYA. DATE 30/04/2010	273 to 276.
C	Handwritten ORIGINAL INVESTIGATION, CLAIMANT DUTY OF CARE, HHS, DIGNITY AT WORK. AGAINST COMPANY AND JOHN GILCREST. SHIFT MGR, TEAM MGR BRUCE BAUBERSON 5 th MAY 2010, 6 th MAY 2010, MEETING WITH SHIFT MGR ISABEL ARMSTRONG.	277 + 280.
(55)	Letter to attend Reconsider disciplinary contract from 30/04/2010 - rescheduled for investigation, 13/05/2010 D.O of Henderson letter handdelivered to claimant on 7/05/2010 following day after clearance 6 th May 2010..	281
(56)	Typed notes of disciplinary HEARINGS - Guy Henderson, result Dismissed, 13 th May 2010. Short-term Patient absence company policy SYA absence procedure.	282 to 289
(57)	Record of contractual dismissal, 13/05/2010.	290
(64)	Prolonged Sickness Checklist, claimant absence 13/03/2010. Absence 34 days due to Back-pain disability, checklist blank.	327 to 333

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(specify and list documents in support of leave to appeal)

BUNDLE # (No)	EMPLOYMENT TRIBUNAL BUNDLE, S/1111SD/2010 (cont)	ET BUNDLE PAGE (No)
87	Handwritten notes of Appeal hearing previous dismissed, reinstatement, 22/02/2006, Failure by Management Shift mgr John Gilchrist, Bruce Barberston to act claimants request lighter duties resulted dismissed,	378.
88	MEDICAL REPORT CONSENT FORM signed by claimant, (10/03/2006) AFTER Refusal reinstatement dismissed' overturned 22/02/2006,	379.
89	Health Referral report, (16/03/2006.)	380
90	CLAIMANTS G.P, MEDICAL REPORT. SENT TO RESPONDENTS, SHIFT MGRS JOHN GILCHRIST, TEAM MGR BRUCE BARBERSTON, WHICH WAS TO BE FORWARDED TO RESPONDENTS O.H.A, (21/03/2006)	381 to 382.
91	TYPED NOTES OF DISCIPLINARY HEARINGS. (30/04/2010) WITH GUY HENRIKSON, THIS WAS RECONSIDERED ON 13 th MAY 2010 WHICH RESULTED IN CLAIMANTS DISMISSAL.	384 to 388.
93	CLAIMANTS 1 ST STAGE APPEAL LETTER REGARDING DISMISSAL ON 13 th MAY 2010, DISCRIMINATED, DUTY OF CARE, HTS, NAMING SHIFT MGR JOHN GILCHRIST, BRUCE BARBERSTON	389 to 396.

Schedule Of Documents ⑥
(specify and list the documents in support of Leave to Appeal)

ET BUNDLE FILE (NO'S)	EMPLOYMENT TRIBUNAL BUNDLE S/111150/2010 (CONT)	ET BUNDLE PAGE (NO'S)
94	Letter from Respondent to Attend Appeal hearing, Stage 1 of 2 Internal procedures DATED 26/05/2010	397
95	Typed notes 1st stage appeal hearing 9/06/2010, ADJOURNED UNTIL 24/06/10	398 to 401
96	Typed notes of recovered 1st stage appeal hearing, upheld dismissal 13/06/2010 24/06/2010	402 to 403
97	Letter confirm decision of 1st stage Appeal hearing 25/06/2010	404
98	CLAIMANT LETTER APPEAL 2nd STAGE INTERNAL PROCEDURE 2nd JULY 2010. DOA DISCRIMINATION BY MANAGEMENT.	405 to 408.
99	Letter to Attend 2nd Stage Appeal hearing against dismissal, Respondents internal policy and procedure, 10 th September 2010,	409.
100	Typed notes of 2nd stage - Respondents Appeal Internal (22 nd September) 2010, adjourned, recovered (11 th November) 2010.	410 to
101	tribunal claim proceed 9 th August 2010 and notes of Appeal hearing 2nd stage were ongoing, AND THESE APPEAL HEARING NOTES HIGHLIGHT NO PROCEDURE RECOVERED, OR ANY INVESTIGATION TO. CLAIMANTS APPEALS	412. <hr/> 413 to 419.

Schedule Of Documents (7)
(Specify and list the documents in support of leave to Appeal)

ET Bundle file (No's)	EMPLOYMENT TRIBUNAL BUNDLE, S/111158/2010 (CONT)	ET BUNDLE PAGE (No's)
102	2 nd STAGE APPEAL OUTCOME LETTER DATE 10/12/2010.	420 to 421.
108	HANDWRITTEN NOTICE OF ATTENDING REVIEW DISCIPLINARY 31/12/09 cont 21/01/2010 DISCIPLINARY REFERRED TO DISMISSING OFFICIAL AFTER. SHIFT MGR. JOHN. CLEGGHAN, ACCUSED CLAIMANT OF FACING ATTEMPTING FAMILY FUNERAL CLAIMANT HAD TO PROVIDE DEATH CERTIFICATE AND FUNERAL ARRANGEMENTS, OF AUNT'S RELATION'S GRANDMOTHER'S SISTER. ACCUSED OF FRAUD AS PAID ONE-DAYE BURIAL NOT ENTITLED TO BURIAL PAYMENT. AS GRANDMOTHER'S SISTER WOULD BE CLAIMANT'S GREAT AUNT. JUDGE SUSAN CRAIG IN WRITTEN JUDGEMENT REP 15000 22 JULY 2011, SAID THAT RESPONDENT HAD ACCEPTED CLAIMANT'S EXPLANATION TO THEM FEW DAYS AFTER THIS WAS NOT SO. THIS WAS REASON WAS REFERRED TO DISMISSING OFFICIAL WHICH RESULTED IN CLAIMANT'S DISMISSAL ON 13 th MAY 2010, BY (C/O) HANDWRITTEN JUSTIFICATION TO SAID TO DISMISSING OFFICIAL. 22/01/2010 signed by Shiftmgr John Cleggchan.	434 CONT
109		441
110		

Schedule of Service

(list the parties name and address you wish to serve your leave to appeal on)

- ① TESCO STORES LTD. - FIRST RESPONDENT,
TESCO DISTRIBUTION CENTRE, CARNEGIE ROAD,
LIVINGSTON, WEST Lothian, EH54 8TB,
- ② Bruce Baubershan - SECOND RESPONDENT,
TESCO DISTRIBUTION CENTRE, CARNEGIE ROAD,
LIVINGSTON, WEST Lothian, EH54 8TB,
- ③ John Gilchrist - THIRD RESPONDENT,
TESCO DISTRIBUTION CENTRE, CARNEGIE ROAD,
LIVINGSTON, WEST Lothian, EH54 8TB,
- ④ John Clegham - FOURTH RESPONDENT,
TESCO DISTRIBUTION CENTRE, CARNEGIE ROAD,
LIVINGSTON, WEST Lothian, EH54 8TB,
- ⑤ Guy Henderson - FIFTH RESPONDENT,
TESCO DISTRIBUTION CENTRE, CARNEGIE ROAD,
LIVINGSTON, WEST Lothian, EH54 8TB,
- ⑥ CLERK OF EMPLOYMENT APPEAL TRIBUNAL,
(SCOTLAND) 52 MELVILLE STREET,
EDINBURGH, EH3 7HP,

GROUND 1

Appeal ET 111150/2010 REGISTERED 22 JULY 2011

JURISDICTION, DIRECT DISABILITY DISCRIMINATION CLAIM CONTRARY TO SECTION 3 A (5) OF THE DISABILITY DISCRIMINATION ACT 1995 (DDA)

1) OPENING SUBMISSION BY ADVOCATE FOR TESCO STORES LTD. MR KENNETH M'QUIRE, ON 16th JUNE 2011, WHO HAD LEAD FOR RESPONDENTS FROM START OF HEARING AFTER CLAIMANT. EVIDENCE ENDED ON 16th JUNE 2011, THERE WAS A BREAK ON RETURN MR K M'QUIRE WAS TO SUM UP RESPONDENTS CASE THEN THAT WAS TO BE FOLLOWED BY CLAIMANT, NOT IN THE PROC IN THE WRITTEN REASONS REGISTERED ON 22nd JULY 2011 SIGNED BY EMPLOYMENT JUDGE SUSAN CRAIG, MR K M'QUIRES OPENING SUBMISSION WAS NOT INCLUDED IN WRITTEN REASONS REGISTERED 22nd JULY 2011, ET/111150/2010 TRIBUNAL ACCEPTS MR M'QUIRES OPENING SUBMISSION, AT HEARINGS, ORAL JUDGMENT DATED 17th JUNE 2011.

2) MR KENNETH M'QUIRE RESPONDENTS ADVOCATE OPENING SUBMISSION WAS THAT CLAIMANTS CLAIM OF DIRECT DISABILITY DISCRIMINATION CONTRARY TO DISABILITY DISCRIMINATION ACT 95 (DDA) THAT THE CLAIMANTS CLAIM AS FERMULATED WAS CONCEIVED, MISS-CONCEIVED WHAT CLAIMANT SOUGHT COULD NEVER SUCCEED AS A CLAIM OF DIRECT DISABILITY DISCRIMINATION (DDA 95) SECTION 3 A (5)

3) MR K M'QUIRE REFERRING TRIBUNAL TO TWO PAGE PHOTO-COPY OF LONDON BOROUGH OF LEWISHAM - V - MALCOLM (2008) IRLR 700 MR M'QUIRE THEN READS PART OF THAT JUDGEMENT AS FOLLOWS: THE HOUSE OF LORDS HELD THE COURT OF APPEAL HAD ERRED IN HOLDING THAT THE COUNCILS CONDUCT IN SEEKING POSSESSION OF THE FLAT CONSTITUTED UNLAWFUL DISCRIMINATION.

4) THE CORRECT COMPARATOR FOR THE PURPOSES S, 24 (1) (a) IS A SECURE TENANT OF THE COUNCIL WITHOUT A MENTAL DISABILITY

GRAND ①

PETER STILL V TESCO STORES LTD + OTHERS
APPEAL ET/11118/2010 REGISTERED 22 JULY 2011

- d) WHO HAS SUBLET HIS PROPERTY AND NOT A SECURITY TENANT WHO HAS NOT SUBLET HIS PROPERTY, IN THAT REGARD, THE COURT OF APPEAL DECISION CLARK - V - NEWALD LTD WAS WRONGLY DECIDED, THERE IS NO POINT IN ASKING WHETHER A PERSON HAS BEEN TREATED (LESS FAVOURABLY) THAN OTHERS IF THE OTHERS ARE THOSE, TO WHOM THE REASON WHY THE DISABLED PERSON WAS SUBJECTED TO THE COMPLAINT OF TREATMENT CANNOT APPLY?
- e) IF A PERSON HAS BEEN DISMISSED BECAUSE HE IS INCAPABLE OF DOING HIS JOB, WHAT IS THE POINT OF MAKING THE LAWFULNESS OF HIS DISMISSAL DEPEND ON WHETHER THOSE WHO ARE CAPABLE OF DOING THEIR JOB WOULD HAVE BEEN DISMISSED?
- f) IF A PERSON HAS BEEN DISMISSED BECAUSE HE WILL BE ABSENT FROM WORK FOR A YEAR, WHAT IS THE POINT OF MAKING THE LAWFULNESS OF HIS DISMISSAL, DEPENDANT ON WHETHER THOSE WHO WILL NOT BE ABSENT FROM WORK WILL BE DISMISSED, IF A TENANT HAS BEEN GIVEN NOTICE TERMINATIONS HIS TENANCY AGREEMENT, THERE IS NO POINT IN MAKING THE LAWFULNESS OF THE ACTION TAKEN BY LANDLORD DEPENDANT ON WHETHER NOTICE TO QUIT WOULD HAVE BEEN SERVED ON TENANTS WHO HAD NOT SUBLET.
- g) PARLIAMENT MUST SURELY HAVE INTENDED MERITORIAL COMPARISON IN ORDER TO DISTINGUISH BETWEEN TREATMENT THAT WAS DISCRIMINATORY AND TREATMENT THAT WAS NOT
- h) WHAT MR K McEUNES WAS PUTTING TO TRIBUNAL WAS A POINT OF LAW, THAT A CLAIM OF DIRECT DISABILITY - DISCRIMINATION, (DDA05) SECTION 3A(5) WAS A CLAIM THAT COULD NEVER SUCCEED AFTER HOUSE OF LORDS JUDGMENT LEWISHAM - V - MALCOLM 2008. 43)

Peter Sira v Tesco Stores Ltd [2010] EWHC 1302
APPENDIX 5/111150/2010 REGISTERED 22 JULY 2011

Ground 1

(i) IF the issues as to disability amount to an allegation that the respondents dismissed the claimant, Mr Sira, because he was disabled (ie direct discrimination) the claimant would be bound to fail on the law as it stood under the DDA, in the light of the LEWISHAM - V - MALCOLM decision in the House of Lords (2008) UKHL,

(43) - (a) because he could not show that dismissal for the lengths of absence he had would not have been the sanction given to anyone who was not disabled, and thus could not show that he had suffered any detriment by reason of his disability.

(b) because so far as disability-related discrimination is concerned, again the Malcolm decision would rule him out

hadly Smith Rule 3(7) she states that this was only Discrimination that claimant could be advancing, a statement by her that claimant could only claim some Act of discrimination that was bound to fail dated 4th October 2011, as Malcolm rule.)

Peter Still v Tesco Stores Ltd + others

(10)

APPEAL ET/111150/2010 REGISTERED 22nd JULY 2011,
Ground 2 (a)

EMPLOYMENT TRIBUNAL. CLAIM ET/111150/2010, JUDGMENT REGISTERED 22 JULY 2011, SIGNED BY EMPLOYMENT JUDGE SUSAN CRAIG. Peter Still v Tesco Stores Ltd, + others, That tribunal judgement written reasons failed to comply with Rule 30(6) of THE EMPLOYMENT TRIBUNALS (CONSTITUTION AND RULES OF PROCEDURE) REGULATIONS 2004)

EMPLOYMENT JUDGE SUSAN CRAIG, HAS DEALT WITH CERTAIN TRIBUNAL CLAIMS, FROM ET 1 9th AUGUST 2010, CASE MANAGEMENT, HEARINGS ORDERS, DIRECTIONS, PRE-HEARING REVIEWS, ORDERS DIRECTIONS, WAS ALSO ET JUDGE AT HEARING AND EMPLOYMENT JUDGE WHO SIGNED WRITTEN REASONS REGISTERED 22 JULY 2011, THE TWO LAY MEMBERS MR K COVAT AND MR J TERRY WERE INVOLVED AT HEARINGS 14th - 15th - 16th - 17th JUNE 2011, I WOULD NOT ACCUSE THE TWO LAY MEMBERS SAYING THAT REGISTERED JUDGMENT 22 JULY 2011, BEING A DECISION THEY HAD MADE, TO ASK THEM FOR THEIR VIEW OF REGISTERED JUDGMENT IF THIS IS WHAT THEY HAD DECIDED,

AS FOR EMPLOYMENT JUDGE SUSAN CRAIG I HAVE NO HESITATION IN SAYING THAT SHE MADE AN JUDGMENT REGISTERED 22 JULY 2011, WAS TOTALLY FAIR AND POWISE, BASED ON EVIDENCE WHICH WAS PRESENT AND CONTAINED IN ET BUNDLE AT HEARINGS ON 14th - 15th - 16th - 17th JUNE 2011,

CONTAINED IN WRITTEN REASONS SIGNED BY EMPLOYMENT JUDGE SUSAN CRAIG 22 JULY 2011, REASONS, THE CLAIMS THE ISSUES, THE EVIDENCE, MATERIAL FACTS, SUBMISSIONS, THE LAW, DISCUSSION AND DECISION, SIGNED BY EMPLOYMENT JUDGE SUSAN CRAIG 21st JULY 2011. REGISTERED 22 JULY 2011.

PETER STILL v Tesco Stores LTD + OTHERS

APPEAL ET/111150/2010 REGISTERED 22nd JULY 2011,

GROUND 2a

A APPEAL TO CAT AGAINST A EMPLOYMENT TRIBUNAL JUDGMENT BEING TOTALLY FLAWED CLAIMANT KNOWING THAT A COURT THAT JUDGMENT WAS POWERFUL TO PROVE THIS IS A HIGH HURDLE OR OBSTACLE TO CLIMB, AFTER LADY SMITHS HANDLING OF MY APPEAL TO CAT, DECISIONS, JUDGMENTS AND DISMISSING MY APPEAL, PUTTING A HIGH HURDLE OR OBSTACLE THAT CONTINUES OVER NEARLY A YEAR. I WOULD ATTEND THIS IF IT MEANS GETTING A APPEAL HEARING WHICH I'D BEEN DENIED SINCE AUGUST 2011, TO PRESENT DATE:

The Employment Tribunal hearing bundle, 14th - 15th - 16th - 17th June 2011, The following Documents contained in that bundle, at no time were those mentioned in Employment Judge Swan: Craig's requested written reason 22 July 2011, Evidence provided in Employment Tribunal bundle, claims made by claimant, Respondents, policy + procedures, all supplied by claimant from Subject Access Request, personnel file, data Protection Act, At time of hearing the joint bundle mentioned in requested judgment 22 July 2011, all documents of factual evidence had been supplied by claimant, the hearing bundle contained the respondents ET3 dated 2 September 2010, AND GROUNDS OF RESISTANCE, NO OTHER DOCUMENTS, SUPPLIED UNTIL HEARING, BY RESPONDENTS, THIS WAS A START OF HEARING 14th June 2011, WHICH WAS TWO PAGE DOCUMENT, OF PETER STILL SICKNESS ABSENCE TRACKER, FROM RESPONDENTS S/I, A POLICY AND PROCEDURES, ON THE 15th JUNE 2011 A FURTHER DOCUMENT PROVIDED BY RESPONDENTS ADVOCATE WAS A COPY OF RESPONDENTS SHORT-TERM-PERSISTENT ABSENCE CHEAT-SHEET, WHICH TOTALLED 4 PAGES, THIS WAS COMPLETED IN FULL, TO SHOW THAT COMPANY PROCEDURE HAD BEEN FOLLOWED AT TOP OF CHEAT-SHEET I HAD CLAIMANTS NAME PETER STILL AND DATE OF 30/4/2010. ADVOCATE

Peter Still v Tesco Stores Ltd + Others

APPEAL ET/111150/2010 REGISTERED 27th JULY 2011,

GROUND 2 (b)

FOR RESPONDENTS MR K McEUNE PRODUCED THIS AND CLAIMED THAT DISMISSAL OFFICER FOR RESPONDENTS HAD COMPLETED THIS A DISCIPLINARY HEARING ON 30th APRIL 2010 WHICH WAS CONTINUED UNTIL 13th MAY 2010 WHERE CLAIMANT WAS DISMISSED BY SHORT-TERM-PENSIONER AGREED THROUGH CLAIMANT'S SICKNESS AND ADJOURNED PROCEDURE POLICY. BOTH THESE HEARINGS WERE DISCIPLINARY HEARINGS, 30th APRIL 2010 AND 13th MAY 2010, THE CHECKLIST PRODUCED ON 15th JUNE 2010 BY MR K McEUNE WAS NOT A DISCIPLINARY CHECKLIST, CLAIMANT HIGHLIGHTED THIS TO TRIBUNAL AT THAT TIME, ON 16th JUNE 2011 BY MR K McEUNE ADVOCATE FOR RESPONDENTS WAS A TWO PAGE PHOTO COPY OF HOUSE OF LORDS JUDGMENT, LONDON BOROUGH OF LEWISHAM v MACELOAN 2008 THE DOCUMENTS PRODUCED ON 16th JUNE 2011, PETER STILL S, Y, A ABSENCE TRACKER WERE FALSE DOCUMENTS THAT CONTAINED THE COMPLETE OPPOSITE OF RESPONDENTS POLICY + PROCEDURE THE CLAIMANT HAD ALREADY PROVIDED, RESPONDENTS S, Y, A, ABSENCE TRACKER. FOR PETER STILL CLAIMANT WHICH WAS CONTAINED IN CLAIMANT'S PERSONNEL FILE, THE CHECKLIST PRODUCED BY MR K McEUNE ON 15th JUNE 2011, DATED 30/4/2010 WITH CLAIMANT NAME PETER STILL, WAS ALSO FALSE DOCUMENTS PRODUCED TO MISLEAD THE TRIBUNAL, DURING DURATION OF CLAIMANT'S CLAIM TO ET 111150/2010 9th AUGUST 2010. TO HEARING 14th - 15th - 16th - 17th JUNE 2011, DOCUMENTS PROVIDED BY RESPONDENTS, ET3. PROVISION OF RESISTANCE DATED 2nd SEPTEMBER 2010, 6 PAGES DURING HEARINGS 14th - 15th JUNE 2011 WHICH WERE FALSE NOT BEING RESPONDENTS POLICY OR PROCEDURE, AND TWO PAGE AUTHORITY ON 16th JUNE 2011, TOTAL DOCUMENTS SUPPLIED BY RESPONDENTS IN ET HEARING BUNDLE, ET3 + GROUND OF RESISTANCE 9 PAGES, DURING HEARING 6 FALSE DOCUMENTS AND TWO PAGE AUTHORITY

PETER STILL v Tesco Stores Ltd + OTHERS

APPEAL ET/111150/2010 REGISTERED 27th JULY 2011,

ROUND 2(c)

RESPONDING TOTAL DOCUMENTS PROVIDED 17 PAGES TOTAL.

REGISTERED JUDGMENT FAILED TO MENTION FOLLOWING OR GIVE AN EXPLANATION JUDGE SUSAN CRAIG MADE NO REFERENCE TO THE FOLLOWING WHICH HE WAS AWARE OF AS BEING UNDELETED FROM STATE OF CLAIMANTS CLAIM TO ET/111150/2010. PETER STILL v Tesco Stores Ltd + OTHERS. I WILL LIST PAGES THAT DOCUMENTS WERE IN TRIBUNAL HEARING BUNDLE.

LIST OF DOCUMENTS, READINGSS, EMPLOYMENT TRIBUNAL BUNDLE.

D

ET1 CLAIMANT ORIGINATING CLAIMS TO EMPLOYMENT TRIBUNAL DATED 9th AUGUST 2010, CLAIMS MADE AGAINST Tesco Stores Ltd., John Gilcrest, John Coughlan, Bruce Bulbuston, and Guy Henderson, unfair dismissal DISABILITY DISCRIMINATION DDA95;

(a) Failure duty to make reasonable adjustments

(b) Harassment, Bullying,

(c) Victimization

(d) Unfair Dismissal, contained in Disability Discrimination Act 1995 (the Act)

NO CLAIM MENTIONED BY CLAIMANT IN ORIGINAL ET1 OF DIRECT DISABILITY DISCRIMINATION, DDA95 the act. S 3A(5)

EMPLOYMENT TRIBUNAL BUNDLE | PAGES 1-13 | ET1 9/08/2010.

② TRIBUNAL ORDER TO FURNISH WRITTEN ANSWERS,

DDA95 the Act, JUDGE SUSAN CRAIG, 13/08/2010 SENT TO CLAIMANT, WANT CLAIMS UNDER DDA95 WORK CLAIMANT CLAIMING AGAINST RESPONDENTS

PETER STILL v Tesco Stores Ltd + OTHERS

APPEAL ET/111150/2010 REGISTERED 27th JULY 2011,

WOUND (2) (d)

LIST OF DOCUMENTS, PLEASINGS, EMPLOYMENT TRIBUNAL BUNDLE

2) CLAIMANTS RESPONSE TO ORDER TO FURNISH WRITTEN ANSWERS
DOA95 the Act questions, claims of Discrimination DOA95
HANDWRITTEN RESPONSE TO QUESTIONS, 27th August 2010,
QUESTIONS 6, 7, 8, REGARDS DIRECT DISABILITY DISCRIMINATION
DISABILITY DISCRIMINATION ACT 1995.

(6) WAS CLAIMANT SUFFERING DIRECT DISABILITY DISCRIMINATION (DOA95)
CLAIMANTS (ANSWER) (NO)

(7) IF SO CLAIMANT DIRECT DISCRIMINATION DOA95, COMPARED AND
LESS FAVOURABLE TREATMENT,
CLAIMANTS (ANSWER) NOT CLAIMING DIRECT DISCRIMINATION

(8) (N/A)

OTHERS ANSWERS AIDED WERE THAT CLAIMANT WAS CLAIMING
DISCRIMINATION DOA95, FAILING TO MAKE REASONABLE ADJUSTMENTS
HARASSMENT, Bullying, Victimisation, unfair Dismissal.
Same as originating claim ET 1 9th August 2010.

Employment Tribunal bundle pages (14-15) 13/08/2010
pages (71-73) 27/08/2010.

3) ET3, GROUNDS OF RESISTANCE, DATED 2nd SEPTEMBER
2010, RESISTING ALL CLAIMANTS CLAIMS AND PUTTING
TO STRICT PROOF, DISABILITY, IMPAIRMENT COVERED
BY DOA95 the Act, FURTHER + BETTER + PARTICULARS, CLAIMANT
TO PROVIDE, employment Tribunal bundle, (Page 74-83)

PETER STILL v Tesco Stores LTD + OTHERS

APPEAL ET/111150/2010 REGISTERED 22nd JULY 2011,

ROUND 2 (e)

④ DDA 95 DLS6 COMPLAINTS QUESTIONNAIRE SENT TO RESPONDENTS DATED 18/08/2010
EMPLOYMENT TRIBUNAL BUNDLE (PAGES 36-52)

DDA 95 DLS6 RESPONDENTS REPORT TO QUERYPARTNER
EMPLOYMENT TRIBUNAL BUNDLE (PAGES 53-70)

SIGNED BY HAMMONDS RESPONDENTS LEGAL REPRESENTATIVES

NO MENTION OF CLAIM OF DIRECT DISABILITY DISCRIMINATION
SENT TO RESPONDENTS DLS6 QUESTIONNAIRE,

RESPONDENTS REPORT TO DLS6, REFER TO GROUNDS OF RESISTANCE
ET3 SENT 2nd SEPTEMBER 2010.

⑤ CASE MANAGEMENT HEARING HELD IN EMPLOYMENT TRIBUNAL
EDINBURGH. ON 1st NOVEMBER 2010.
EMPLOYMENT JUDGE, SUSAN CRAIG
CLAIMANT, PETER STILL (CLAIM 111150/2010)
RESPONDENTS ADVOCATE, MR GIBSON

NOTE FOLLOWING CASE MANAGEMENT DISCUSSION

(3) This is a claim in which the claimant argues, inter alia that he is a disabled person within the meaning of the Disability Discrimination Act 1995 (DDA). The respondents do not concede that that is so and, said MR GIBSON, put the claimant to his strict proof about the matter. (page 88) (Employment Tribunal bundle.)

(4) Following discussion I directed that there should be a Pre-Hearing Review to determine the issue of whether or not the claimant is a disabled person as defined. It was agreed (cont)

PETER STIU v Tesco Stores Ltd + others

(10)

APPEAL ET/111150/2010 REGISTERED 27th JULY 2011,

ROUND (2) (F)

⑤ NOTE FOLLOWING CASE MANAGEMENT DISCUSSION 1ST NOVEMBER 2010

- (4) That this will take place on 12th January 2011 and a Notice of hearing will now be issued.
- (5) There was a discussion about the extent to which respondents had knowledge of the alleged disability
- (6) The claimant explained that he had attended occupational health examinations and that the reports had been sent to the respondents. Further he said, a report had been sent to them by his GP albeit that apparently he had not had sight of that report. If that report is within his own medical records then he should be able to access a copy via his GP without the need for any directions from me.
- (7) I directed that the claimant is to produce copies of all and any documents that he intended to rely upon at the PHR to prove that he is a disabled person, including all such reports, within 14 days of the date of the CMD, i.e. 14th November 2010. These should be properly numbered and indexed with copies sent to the respondents as well as to the tribunal
- (8) For the time being the PHR will be confined to the determination of the question of whether or not the claimant was a disabled person. However that is a matter that will be kept under review. In the pleadings the claimant refers to incidents that took place between 2005 and 2009. Mr Gibson sought clarification of the extent to which the claimant was relying those incidents as acts of discrimination or whether they were pled by way of background only
- (9) As the claimant explained that these incidents did form part of his case and that he was relying upon them, that raised the issue of time-bar. However rather than include that issue in the PHR at this stage I directed that the claimant is to provide (FURTHER AND BETTER PARTICULARS)

Peter Still v Tesco Stores Ltd + others

APPEAL ET/111150/2010 REGISTERED 22nd JULY 2011.

GROUND (2) (9)

(5) NOTE FAVORING CASE MANAGEMENT DISCUSSION 1st NOVEMBER 2010.

(9) (FBP) in relation to each and every reasonable adjustment he claimed, with dates, and with details of the way in which the adjustment argued for would have had the effect of removing or reducing the disadvantage that resulted from the disability claimed

(10) Those FBP are to be produced to the tribunal and copied to the respondents solicitors by 30th November 2010 and a view will be taken at that stage about whether or not the PHR should be extended to cover time - bar

(11) I WAS ALSO ADVISED THAT THE INTERNAL APPEALS PROCEDURE IS NOT YET COMPLETE ALTHOUGH THAT THE FINAL STAGE APPEAL HEARING HAS BEEN SCHEDULED FOR 12th NOVEMBER

(13) MR GIBSON SOUGHT CLARIFICATION OF THE BASIS ON WHICH THE CLAIMANT SOUGHT TO CONTINUE WITH HIS CLAIMS AGAINST THE INDIVIDUAL RESPONDENTS STANDING THE FIRST RESPONDENTS ACCEPTANCE OF VICARIOUS LIABILITY, WHILE I ATTEMPTED TO EXPLORE THAT MATTER WITH THE CLAIMANT HE INDICATED THAT HE WISHED TO SEEK ADVICE ON THE MATTER.

(14) THE CLAIMANT WAS THEREFORE DIRECTED TO PROVIDE FURTHER AND BETTER PARTICULARS OF THE BASIS ON WHICH HE ARGUES THAT THE INDIVIDUAL RESPONDENTS SHOULD REMAIN PARTIES TO THE PRESENT PROCEEDING, AND IS TO DO SO BY 30th NOVEMBER

(15) THE CLAIMANT ASKED THAT I NOTE A CHANGE OF ADDRESS, HE EXPLAINED THAT HE HAD RECENTLY BEEN MADE HOMELESS AND WOULD BE, ON A TEMPORARY BASIS STAYING AT CARE OF SIMARNA AV BATHGATE, EH48 1TF, HE WAS REMINDED THAT IF THERE WAS ANY CHANGE TO THAT ADDRESS HE SHOULD ADVISE THE TRIBUNAL IMMEDIATELY
Signed employment judge (Susan Craig) 1st November 2010,

Peter Still v Tesco Stores Ltd + others

Appeal ET/111150/2010 REGISTERED 22nd JULY 2011.

GROUND (2) (h)

⑤ NOTICES OF CASE MANAGEMENT DISCUSSION 1st NOVEMBER 2010
Employment Tribunal bundle. (pages 88-89-90-91)

⑥ CLAIMANT PUT TO STRICT PROOF REGARDS IMPAIRMENT COVERED
BY DISABILITY DISCRIMINATION ACT, MEDICAL EVIDENCE PROVIDED
BY CLAIMANT AS ORDERED CASE MANAGEMENT FOR PHR LISTED
FOR 12th JANUARY 2011,

All orders regards FURTHER + BETTER + PARTICULARS, THAT
CLAIMANT WAS TO PROVIDE BY 30th NOVEMBER 2010,
Employment Judge Susan Craig

Claimant provided 40+ pages handwritten (FBP) WHICH
INCLUDED, CLAIMS, DATES, MANAGEMENT INVOLVED, ALONG WITH
DOCUMENTS PROVIDED THAT WERE FROM CLAIMANT'S PERSONNEL
FILE WHICH RESPONDENT PROVIDED COPY TO CLAIMANT JULY 2010.
SUBJECT ACCESS REQUEST DATA PROTECTION ACT, AFTER A
THIRD WRITER REQUEST, THIS WAS PROVIDED SIX WEEKS AFTER
MY DISMISSAL ON 13th MAY 2010,

Employment tribunal bundle, claimants handwritten
Further Better Particulars as ordered by employment judge
Susan Craig case management 1st November 2010.

(FBP) pages 126 - 168 of hearing bundle.

DDA 95 claims (FBP) Failure to make reasonable
Adjustments, Harassment, Bullying, Victimization,
unfair dismissal,

(NOT ONCE DID CLAIMANT MENTION CLAIM OF DIRECT DISCRIMINATION
DDA 95) AT ANY TIME IN 42 PAGES HANDWRITTEN (FBP)

Peter Still v Tesco Stores Ltd + others

Appeal ET/111150/2010 REGISTERED 22nd July 2011.

Ground 2(i)

① Employment tribunal letter dated 9th December 2010 that Pre-hearing Review listed for 12th January 2011, set at case management hearing on 1st November 2010, claimant to prove impairment, disability, covered by DDA 95 (the act) Postponement of Pre-hearing after Respondents willing to accept claimant had impairment, disability covered by DISABILITY DISCRIMINATION ACT 1995.

DATE TO BE LISTED FOR CASE MANAGEMENT DISCUSSION

② After claimant's second Stage Internal appeal had ended on 11th November 2010, FAILURE TO INVESTIGATE ISSUES RAISED CONCERNING MANAGEMENT DISCRIMINATION, WHICH WAS CONTINUED FROM HEARINGS 22nd SEPTEMBER 2010, THREE MONTHS AFTER AFTER REQUEST FOR SECOND STAGE INTERNAL APPEAL, HEARINGS WHICH WAS FIRST WORN JULY 2010,

ET1 issues grounds for Second Stage Appeal Internal hearing, same grounds put forward in originating ET1 to et claim 111150/2010, 9th August 2010,

ET3 and grounds of resistance sent dated 2 September 2010, deny all allegations made, claimant put to strict proof, on disability, discrimination, claim F, B, P,

CLAIMANT RAISED CLAIM ET1, AFTER HEARING INTERNAL APPEAL ENDED ON 11th NOVEMBER 2010, THAT FAILURE TO ACT OR INVESTIGATE ANYTHING RAISED FOR SECOND STAGE INTERNAL APPEAL HEARING NAMING COMPANY, SENIOR MGMTS PROTECTED DISCOURSE AND FAILURE ACT INVESTIGATE MANAGEMENT

Peter Still v Tesco Stores Ltd + others

Appeal ET/111150/2010 REGISTERED 22nd July 2011.

Ground (2)(j)

⑧ TYPED HEARING NOTES OF SECOND STAGE INTERNAL APPEAL, FINAL STAGE OF APPEAL WITH TESCO STORES LTD, POLICIES AND PROCEDURES, DATED 22nd SEPTEMBER 2010, LIVINGSTON TESCO DISTRIBUTION CENTRE, CLAIMANT PETER STILL, TESCO REGIONAL PERSONNEL MANAGER JENNIFER BRANCKER, AND MARK WINDOOL, GENERAL MANAGER, DISTRIBUTION CENTRE England, DIDCOT D.C., ALSO PERSONNEL TRAINING EXECUTIVE, LESOBELE COLLIE TAKING NOTES, OF HEARING, LIVINGSTON, D.C. PERSONNEL MANAGER, HEARING CONTINUED, AND RECONVENED 11th NOVEMBER 2010, DECISION DISMISSED ON 13th MAY 2010 BY GUY HENDERSON, WAS UPHOLD AND DECISION WAS FAIR ONE COMPANY POLICIES HAD BEEN FOLLOWED IN FULL.

Employment Tribunal hearing bundle.

Letter request Second Stage Appeal hearing within company's internal policies + procedures, Grounds for Second Stage appeal hearing Dated July 2010, (pages 405 - 408)

TYPED NOTES OF THE SECOND STAGE APPEAL HEARING (dated, (22/09/2010) (pages 410 - 412)

Typed Notes of Reconvened Second Stage Appeal hearing, dated (11/11/2010) pages (413 - 419)

Appeal outcome letter, dated (10/12/2010) - pages (420 - 421)

Tesco Appeal checklist, dated (19/11/2007) pp (325-326)

Peter Still v Tesco Stores Ltd + others

Appeal ET/111150/2010 REGISTERED 22nd July 2011.

Ground (2) (k)

① Notes of Case management Hearing, Dated 28th February 2011, Employment Tribunal, Edinburgh,
Employment Tribunal Judge - Susan Craig

Claimant - Peter Still

Advocate for all Respondents, in both claims

MR KENNETH M'GUIRE, ADVOCATE FOR RESPONDENT
USDAW AREA ORGANISOR (LAW FRASER), MR. FORSYTH,
IN SECOND CLAIM (5th RESPONDENT)

Case numbers S/111150/2010 and S/100758/2011.

(1) The claimant has presented two claims, The first claim - S/111150/2010 - is one of unfair dismissal, disability discrimination and unpaid wages.

(2) In November 2010 there was a CMD in the first claim following which a PHR was arranged on the question of disability status. However prior to PHR - which had been listed for 12th January 2011 - the respondents conceded that the claimant was a disabled person. In the usual course a second CMD would then have been fixed to determine further procedure.

(3) In the meantime, however, on 25th January 2011 the claimant presented a second claim - S/100758/11 - again naming the first respondent but with four other different individual respondents. That claim was also registered as one of unfair dismissal and disability discrimination but also as one of Public Interest disclosure.

Peter Still v Tesco Stores Ltd + others

Appeal ET/111150/2010 Registered 22nd July 2011.

Ground (2)(1)

Case management employment Tribunal hearing 28th February 2011, employment judge Susan Craig.

- (4) The claimant, who had been dismissed on 13th May 2010, explained that he had made a disclosure on 11th November 2010, as part of an appeal against that dismissal. He went on, if allowed to add to ongoing claims I will withdraw this new claim.
- (5) I directed that there be a CMD in relation to both claims. The claimant appeared in person, MR Rowan M'Quinn, Advocate, appeared for all the respondents in the first claim and the first to fourth respondents in the Second, MR Forsyth, Advocate, appeared for the fifth respondent in the second claim.
- (6) The following matters were discussed and agreed,
 - (7) The claimant had had sight of the ET3's lodged on behalf of all the respondents in the Second claim, He explained that he accepted that the fifth respondent had not been his employee nor was he employed by the first respondents, He accepted that there was no proper basis for a claim against the fifth respondent and withdrew the claim against him.
 - (8) Similarly in relation to the other four respondents the claimant accepted that the disclosure he referred was made some considerable time after his dismissal, He withdrew that claim as well.
 - (9) I ordered that the claimant formally confirm that withdrawal in writing within 7 days of the date of the CMD i.e. by 7th March 2011, after which the respondents may enfold for dismissal in the usual way.

Peter Still v Tesco Stores Ltd + others

Appant ET/111150/2010 REGISTERED 22nd July 2011.

(10)

Ground (2)(M)

Case Management employment tribunal, 28th February 2011,
Employment judge Susan Craig, orders, directions

- (10) I note Mr Forsyth's position that the fifth respondent would not be seeking expenses if the claim was withdrawn at the CMD but that such expenses would have been sought if that claim had proceeded.
- (11) In relation to the first claim, following discussion the claimant confirmed that he was not seeking to amend that claim to include a PID claim and was content for the matter to proceed under the existing jurisdictions.
- (12) There then followed discussions about the issues raised in that claim in particular the question of whether or not aspects of the claim were time-barred.
- (13) The claimant confirmed that following his re-statement in 2006, it was not until March 2009 that the respondents carried out the adjustment he sought - that of taking him off picking duties and putting him on loading duties. He explained that he accepted - and had always accepted - that that was a reasonable adjustment.
- (14) In December 2009, the claimant was told that he was to be reassessed by occupational health and signed a medical consent form on 20th January 2010. He went of sick 28th January. He did not return to any duties either the adjusted duty of loading or the previous duty of picking.
- (15) It was Mr Kenneth McGuire's position that that did not constitute allegations of an on going failure on the part of the respondents such as to entitle the claimant

Peter Still v Tesco Stores Ltd + others

Appant ET/111150/2010 REGISTERED 22nd July 2011.

Ground (2)(ii)

Case management hearing 28th February 2011 employment tribunal, employment Judge Susan Craig, orders, directions

(15) To lead evidence about any alleged failures that occurred more than three months prior to the presentation of the ET1. The claimant agreed that a reasonable adjustment had been made in March 2009 and that therefore had the effect of (crystallising) any complaints about failures prior to that date. Any such complaints were out of time said MR K McQuire

(16) Standing the claimant's acceptance that at least part of his case concerned complaints he had made about the alleged failure to carry out adjustments prior to March 2009 any allegations about matters prior to that date would be out of time. An out of time claim can however be allowed to proceed under the DDA if a tribunal is satisfied that it is just and equitable to do so.

(17) That is an issue that can not be determined at a CMD. Given that the pre March 2009 allegations do not amount to allegations of an on going failure (the adjustment having in fact been carried out albeit as the claimant alleged some three years later) this is not a matter that should be held over for determination at a full hearing. Instead I directed that a PHR should be fixed to determine whether the tribunal should exercise its discretion to allow that part of the claim to proceed though late. Date listing stencils will now be issued. It was agreed that the PHR should be listed for a full day.

Peter Still v Tesco Stores Ltd + others

APP041 ET/11150/2010 REGISTERED 22nd July 2011.

GROUND 2 (P)

Case Management hearing 28th February 2011, employment tribunal
employment tribunal Judge Susan Craig, orders, directions

(18) It is likely that a further CMD will be required after
the PHR to determine, amongst other matters, the precise
nature of the claimants allegations in relation to discrim-
ination in the decision to dismiss. That can be fixed once
the judgement in the PHR has been issued

signed employment judge

S.A. Craig

date 28th February 2011.

(10) NOTICE OF HEARINGS - PRE-HEARINGS REVIEW (23/3/2011)

PRELIMINARY ISSUE employment tribunal Rules of Procedure

2004, (a) Time-barr, Hearing Friday 8th April

2011, Melville Street, Edinburgh, case no 11150/2010,

Peter Still v tesco Stores Ltd + others.

(11) NOTE OF ORDERS PRE-HEARINGS REVIEW, employment
tribunal Edinburgh, FRIDAY 8th April 2011,
employment tribunal judge Susan A Craig
claimant - Peter Still

Solicitor for all respondents Andrew Palascanalolo,
Squire and Sanders LLP. heeds

Peter Still v Tesco Stores Ltd + others

App no ET/111150/2010 REGISTERED 22nd JULY 2011.

Ground (2) (a)

NOTES DIRECTIONS PRE-HEARING REVIEW 8th April
2011, employment judge Susan A Craig

et claims/111150/2010 Peter Still v Tesco Store Ltd
+ others.

(ii) ORDER OF THE EMPLOYMENT TRIBUNAL.

whereas the claimant has withdrawn

(First) his claim of unlawful discrimination contrary
to the Disability Discrimination Act 1995 in relation
to all and any matters that arose prior to
March 2009 (and)

(Second) his claim of unauthorised deductions
from wages.

Orders that the matter shall proceed to a full
hearing on the merits and remedy to be confined
to the claims of

(First) Unfair dismissal contrary to Sections 94 and 98
of the employment rights Act 1996 in relation
to the dismissal on the 13th May 2010,

(Second) Direct discrimination contrary to Section 3A(5)
of the Disability Discrimination Act 1995 in relation
to the dismissal on 13th May 2010,

Peter Still v Tesco Stores Ltd + others

APP011 ET/111150/2010 REGISTERED 22nd JULY 2011.

GROUND (2) (R)

ORDER OF EMPLOYMENT TRIBUNAL Pre-Hearing Review
DATED 8th APRIL 2011, Employment Tribunal Judge:
Susan A Craicey, et S/111150/2010,

(11)

REASONS

- ① This matter had been listed for a Pre-hearing review, to determine whether it was just and equitable to allow parts of claimant's claim - which it was accepted were out of time - be allowed to proceed, that concerned allegations of disability discrimination about matters prior to March 2009, the date on which it was agreed a reasonable adjustment had been made,
 - ② The claimant appeared in person and the respondent was represented by MR Parascondob.
 - ③ At the outset of the PHR the claimant explained that he wanted to withdraw that claim and instead proceed only with the claims of unfair dismissal and of direct disability discrimination arising out of that dismissal.
 - ④ That being so the claim that was the subject of the PHR - of unlawful discrimination contrary to the Disability Discrimination Act 1995 in relation to all and any matters arose prior to March 2009 - is dismissed.
 - ⑤ Following further submissions the claimant also withdrew his claim of unauthorised deductions contrary to Section 13 of the Employment Rights Act 1996 (ERA) that claim is also dismissed.
-
-
-
-

Peter Still v Tesco Stores Ltd + others

Appeal ET/111150/2010 REGISTERED 22nd July 2011.

Ground (2) (s)

ORDER OF EMPLOYMENT TRIBUNAL PRE - HEARINGS - REVIEW

8th April 2011, Employment Judge Susan A Craig

(11)

(6) The claims are now confined to the following

(7) First, a claim of unfair dismissal contrary to Sections 94 and 98 of ERA. The claimant challenges the fairness of the decision to dismiss him as well as the process followed by the respondent.

(8) Second, the claim that the decision to dismiss was direct disability discrimination contrary to Section 3A(5) of the DDA. The specific allegation is that the respondent included days when the claimant was absent from work because of his impairment. These should not have been included submits the claimant, and had they not been he would not have had sufficient service to trigger the respondent's absence management process to the point of dismissal.

(9) It was agreed that the matter should be listed for a 4 day hearing and date listing stencils will now be issued for June, July and August 2011.

(10) THE RESPONDENT WILL LEAD AT HEARINGS and is likely to call four witnesses. The claimant may lead evidence from the representative who accompanied him to the meeting that led up to, but did not include, the meeting at which he was dismissed. He is to speak to that witness shortly.

Peter Stitt v Tesco Stores Ltd + others

App No ET/111150/2010 REGISTERED 22nd July 2011.

Ground (2) (1)

(1) Order, Directions Pre-Hearing - Review 8th April 2011,
employment judge Susan A Craig

(11) Witness statements are not to be used

(12) I directed that there should be a joint bundle of documents lodged for which the respondents is ordered to take responsibility. Once the notice of hearing is issued the respondent will have 14 days to draft the Index for the joint bundle. The claimant will have a further 14 days thereafter to identify any additional documents that he wishes to fund on and that are relevant to the issues to be determined at the hearing. The joint bundle to be lodged with the tribunal no later than 14 days prior to the hearing itself.

(13) The claimant was reminded that it falls to him to produce evidence of loss and that he has been taking steps to mitigate that loss. He is ordered to prepare a Schedule of loss to be produced with the tribunal (and copied to the respondent) within 14 days of the issuing of the notice of hearing.

Employment Judge Susan A Craig

Date 8th April 2011,

registered 12th April 2011, and sent to parties

On receiving Pre-hearing order 12th April 2011,
emailed judge Susan A Craig requesting, a Pre-hearing
review regarding Pre-hearing order that claims of Direct
DISABILITY DISCRIMINATION, 95 DDA the act, refused by
judge Craig letter dated 27th April 2011.

Peter Still v Tesco Stores Ltd + others

Appeal ET/111150/2010 Registered 22nd July 2011.

Ground (2) (v)

All of information contained ground (2) set out in detail from originating claim to et S/111150/2010 ET1 dated 9th August 2010. Case mgt, Pre-hearing reviews, orders all made putting claimant to strict proof, medical proof, Further Better Particulars, ORDER TO FURNISH WRITTEN ANSWERS, DDA 95 DLSB QUESTIONNAIRE, ET3 ground of Resistance EMPLOYMENT JUDGE SUSAN A CRAIG BEING employment judge involved from start of claimant's claim, orders directions all made by Judge Susan A Craig, Case managements, Pre-hearing reviews, hearing 14th - 15th - 16th - 17th June 2011, Registered written reasons dated 22nd July 2011, signed by employment Judge Susan A Craig.

NONE OF THE ABOVE WAS AT NO TIME MENTIONED BY EMPLOYMENT JUDGE SUSAN A CRAIG, WRITTEN REASONS REGISTERED 22 JULY 2011,

① CLAIMANT AT NO POINT HAD ADVANCED A CLAIM OF DIRECT DISABILITY DISCRIMINATION CONTRARY TO DDA 95 (the act) AND TRIBUNAL HAD NO JURISDICTION TO RULG ON A DIRECT DISABILITY DISCRIMINATION CLAIM SECTION 3A(5) THIS WAS ADVANCED AFTER PRE-HEARING REVIEW 8th APRIL 2011, BY EMPLOYMENT JUDGE SUSAN A CRAIG,

Peter Still v Tesco Stores Ltd + others

Appeal ET/111150/2010 Registered 22nd July 2011.

Ground (2) (w)

Employment Judge Susan Craig, order of Pre-Hearing review 8th April 2011, sent to claimant respondent registered 12th April 2011, which the claim of Direct Discrimination contrary to DOA 95 the Act Section 3A(5), at Pre-hearing review Employment judge Susan Craig after claimant withdrew part of his claim which was reasonable adjustment, up until MARCH 2009, Judge Susan Craig ASKED CLAIMANT IF HE WAS CLAIMING DIRECT DISCRIMINATION, CLAIMANT AS ADVISED BY EHRIC advised not to mention or be tricked into putting forward this sort of Discrimination, I informed employment judge Susan Craig that I didn't understand that sort of claim and that I wasn't claiming Direct Discrimination, Judge Craig asked claimant a few questions, and wasn't until claimant received order pre-hearing review registered 12th April 2011, that sort of Discrimination was being put forward by EJC Susan Craig, the following cited in law.

(a) A claim of Direct Disability Discrimination DOA 95 (the act) not contained in originating application ET1 9th August 2010 et s/111150/2010 Peter Still v Tesco Stores Ltd, not in Further and Better Particulars, 42 handwritten pages of all claim in detail, dates, management involved, no amendment to originating claim et1 to include this sort of discrimination tribunal having no jurisdiction to rule on, Chapman v Simon court of appeal judgement,

Peter Stille v Tesco Stores Ltd + others

Appeal ET/111152/2010 registered 22 July 2011

Ground 2 (x)

WRITTEN REASON PAGE (8) OF REGISTERED JUDGMENT
Submissions

(50) It was the claimant's (submission) that the respondent knew full well that he was covered by the DDA and that he could ^(understand) why it took them so long to acknowledge that fact to the Tribunal. He did not believe he should have been subjected to the absence management process and that it was unfair that he was.

along with all the documents, et bundle. F + P, case notes, pre-hearing review orders put to 'strict proof', Disability time-bar - from 9th August 2010, until end of four day hearing and this sentence sums up documents clear, 59 words in total no mention of grievances, Dignity + worth Duty of care as listed in et bundle documents, Appeals, rights to pension benefits, ill-health retirement, O, H, A reports stating claimant likely to be DDA.

Pets Store v Tesco Store Ltd + others
Appeal ET/111150/2010 Reheard 22 July 2011

Ground 2 (a)

Submission

(50) cont

covered after previous dismissal was overturned by respondent managers at old Uxington D.C. for failure to act on doctor's request to make reasonable adjustments Feb 22/2006. AND MANAGEMENT WERE AWARE OF THAT FACT, THE SAME MANAGEMENT NAMES ON DIGNITY WORK, DUTY OF CARE, HTS PREAMBLE DATED 5th MAY 2010 AND 6th MAY 2010. ON 7th MAY 2010 COUNCIL HANDED LETTER TO ATTEND DISCIPLINARY ON 13th MAY SYA, RECONVICTED FROM 30th APRIL 2010, FOR HONORS AFTER COUNCIL ADDED MANAGEMENT NAMES TO PREAMBLE ON 5th MAY 2010 - 6th MAY 2010 JOHN SILCROFT AND BRUCE BARBOLSON, A WEEK AFTER DISMISSED 13th MAY 2010 NOT A SINGLE MENTION OF ANY OF THEM BY EMPLOYMENT JUDGE SUSAN CRAIG IN REGISTERED JUDGMENT, THAT IS A (FACT) AND THAT JUDGMENT 22 JULY 2011, IS FRANKO - PORVORSE - CANT EXPLAIN IT ANY MORE.

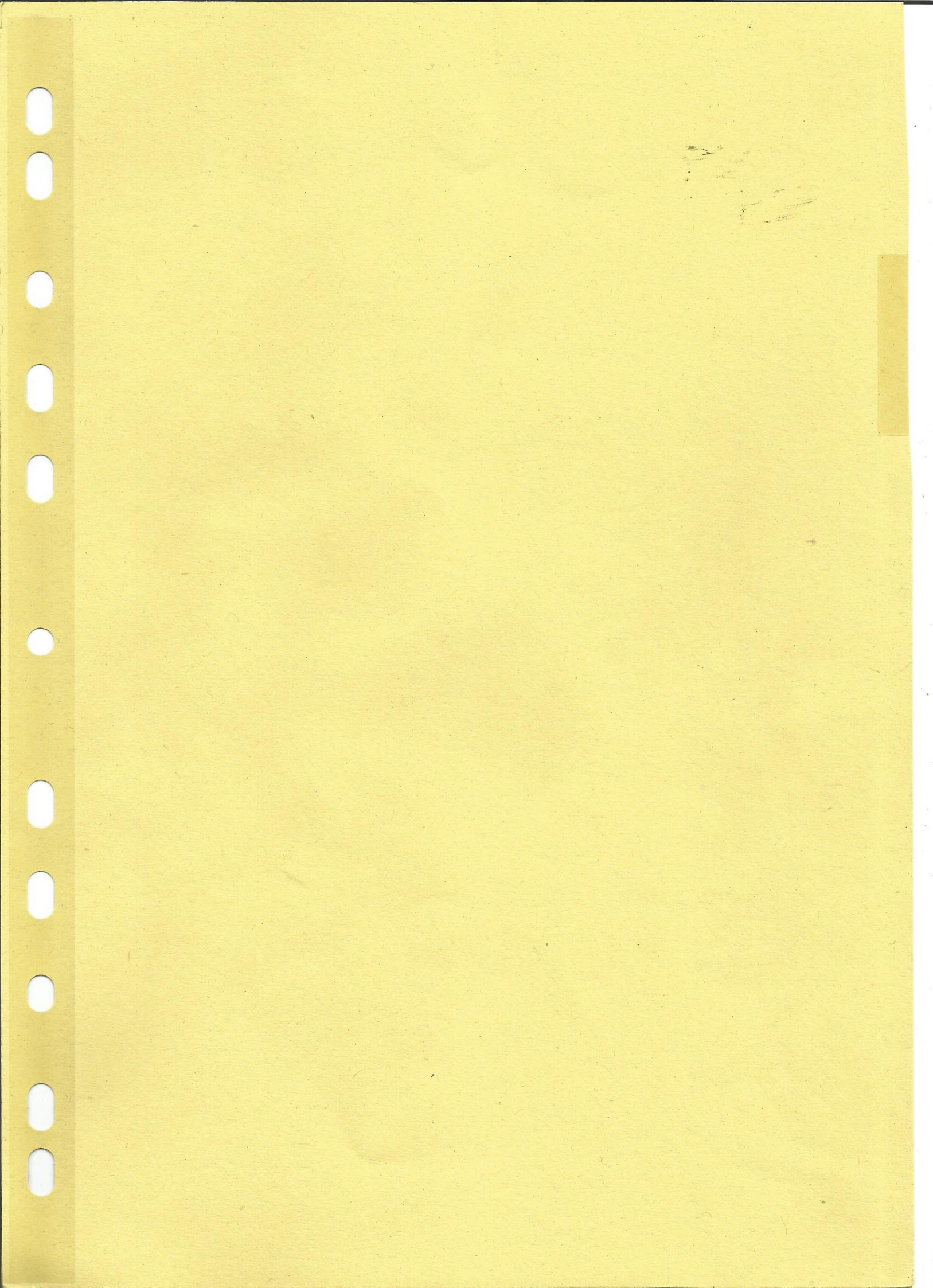
Peta Steu v Tesco Stores Ltd + others
Appeal ET/111150/2010 Registered 22 July 2011.

ground (2) (7)

Submission (cont)

(50)

that I have done, as for employment law, Rules numbers, CAT procedures, tribunal rules regulate jurisdiction and the list goes on, I don't have the legal know how to list these all in the order, and I have only ~~done~~ put how I think I have been wronged. and as President of CAT Mr Justice Langstaff states in his reasons order refusing leave to appeal application dated 26th June 2012, default notice of Appeal is hard to follow ~~too~~ & hope I've explained it that the court of Appeal, judge can follow and understand what my appeal means,



Peter Still v Tesco Stores Ltd + others
APPEAL ET/111150/2010 REGISTERED 22 JUL 2011.

(10)

GROUND (3)

JURISDICTIONAL POINTS - 2002 ACT and PRE-ACTION REQUIREMENTS

DISABILITY DISCRIMINATION - DIRECT § 3A(5)

the DDA 95 (act)

(a) TRIBUNAL WAS IN ERROR AS IT HAD NO JURISDICTION TO RULE UPON CLAIM OF DIRECT DISABILITY DISCRIMINATION CONTRARY TO THE DISABILITY DISCRIMINATION ACT 1995 SECTION 3A(5) THIS KIND OF DISCRIMINATION WAS AT NO TIME PLEADED BY CLAIMANT, ORIGINAL APPLICATION ET1 DATED 9th AUGUST 2010, ET CLAIM 111150/2010, PETER STILL v tesco stores Ltd + others.

(b) CLAIMS OF DDA 95 AND UNFAIR DISMISSAL DUTY TO MAKE REASONABLE ADJUSTMENTS HARASSMENT, VICTIMISATION, CONTRARY TO DISABILITY DISCRIMINATION ACT 1995. Pages (ETB) ① (1-13)

(c) TRIBUNAL ORDER TO FURNISH WRITTEN ANSWERS 13th AUGUST 2010 TO DISABILITY QUESTIONS EMPLOYMENT TRIBUNAL BUNDLE, ② Pages (14-15),

⑥ HANDWRITTEN REPLY TO ORDER TO FURNISH WRITTEN ANSWERS Pages ET Bundle (71-73)

(d) CASE MANAGEMENT ET 1st NOVEMBER 2010 ORDERS CLAIMANT PROVE DISABILITY, DDA CLAIM FURTHER + BETTER PARTICULARS, ET BUNDLE ②⑧ Pages (126-168)

Peter Stone V Tesco Stores LTD + OTHERS
APPEAL ET/111150/2010 REGISTERED 22 JULY 2011.

GROUND ③

e) Employment Tribunal Order Pre-Hearing Review
8th April 2011, ⑮ Pages (104-106) ET BUNDLE.
HEARING LISTED FOR FOUR DAYS 14th - 15th - 16th - 17th
JUNE 2011,

f) Claimant emailed Employment Tribunal on
14th April 2011, requesting Employment Tribunal
Judge Susan Craig grant claimant pre-hearing
review as order sent by Employment Judge
Susan Craig after Pre-hearing review states
that DOA 95 claim was now a claim of Direct
Disability Discrimination Section 3 A(5) of the Act
claimant having not plead or understood this sort
of discrimination request refused by Employment
Judge Susan Craig dated 27th April 2011.

g) Tribunal erred in law by rule on claims that
they had not been contained in originating application
of claimants 40 + plus Pages Handwritten F+B+P's
and no amended ET1 to include A claim of Direct
DISABILITY DISCRIMINATION DOA 95 the act
COURT OF APPEAL (CHAPMAN V SIMON)

Peter Stille v Tesco Stores Ltd + others
Appell et/111150/2010 REGISTERED 22 JULY 2011.

③

(F) CHAPMAN v SIMON (1994) IRLR 124

42, GIBSON LJ STRESSED THE IMPORTANCE OF PLEADING ALLEGATIONS THAT WERE TO BE RELIED UPON.

UAL S 54 OF THE 1976 ACT, THE COMPLAINANT IS ENTITLED TO COMPLAIN TO THE TRIBUNAL THAT A PERSON HAS COMMITTED AN UNLAWFUL ACT OF DISCRIMINATION, BUT IT IS THE ACT OF WHICH COMPLAINT IS MADE AND NO OTHER THAT THE TRIBUNAL MUST CONSIDER AND (RULE) UPON.

(i) THE POINT WAS TAKEN FURTHER IN Abuja v. INSHAMS (2002) EWCA CIV 1992, THIS WAS AN UNUSUAL CASE IN WHICH EVIDENCE WAS ADDUCED BY THE CLAIMANT OF THREE ALLEGATIONS OF SEPARATE INCIDENTS OF DISCRIMINATION AND SUBMISSIONS AS THE SUBJECT OF CROSS-EXAMINATION HERE AS IT HAPPENED ONE ALLEGATION WAS PLEADED BUT NOT FORMALLY PROVED, AND TWO WERE PROVED BUT NOT PLEADED. A LAY PERSON MAY BE FORSWORN FOR NOT DIFFERENTIATING BETWEEN THE TWO THINGS, BUT THE LAW SAYS OTHERWISE.

(j) THE TRIBUNAL SHOULD CONFINE ITSELF TO THE ACTS OF DISCRIMINATION SPECIFIED IN THE ORIGINAL APPLICATION, UNLESS IT ALLOWS THE ORIGINAL APPLICATION TO BE AMENDED OTHER AUTHORITIES (UKCAT/0508/10/OA.)
MR M AMIN v WINLANTON GROUP LTD, (25/01/12.)
(UKCAT/0594/10/ZT) ROYAL BANK SCOTLAND v MRS v U NNOBUAGWU. (24/02/12)