

IN THE EMPLOYMENT TRIBUNAL , LONDON SOUTH

REGINA BENVENISTE (Applicant) and KINGSTON UNIVERSITY (Respondent)

DETAILS OF COMPLAINT

1. Introduction:

I commenced employment at Kingston University on 14/2/94 as a senior lecturer in the School of Mathematics. I worked continuously for that University till 13/8/04 when I was dismissed. My retirement age is 65.

My claims against my employers relate to :

- Unfair dismissal
- Breaches of contract (express and implied terms)
- Victimisation (section 4 of SDA 1975, section 2 RRA 1976)
- Unfair and unreasonable treatment including but not limited to breaches of the employer's procedures and employment laws.

My accusations are supported by substantial evidence part of which comes from the respondent's files that have been acquired through a subject access request under the Data Protection Act.

2. I will present below a brief outline of the **background** to my complaint.

- A) Even since I started working for the University in 1994, I found that my efforts for research and career development were not supported by the University. That was in contrast to my expectations, based on promises when the post was offered to me in 1994. My reminders and efforts to make my management deal with these problems were ignored. So during my 1999 appraisal I criticised my management for these problems. This triggered a chain of events that can best be described as harassment, and victimisation against me that made my working life intolerable. That drove me to take legal action against my employers in 2003. I made a complaint for Discrimination / Victimisation to the Employment Tribunal (April 2003). The ET had no jurisdiction to hear claims about breaches of contract so I submitted a claim asking for a Declaration of breach of contract to the County Court (July 2003). Solicitors were appointed by the insurers who paid my legal expenses. They found that both the ET and the Court claims had reasonable prospects of success.
- B) On the advice of the solicitors and because of constraints imposed by the insurers, I withdrew the Tribunal claim. The University made an application for costs but when that was heard (on 5/1/04) the Tribunal found that my case had not been misconceived. On the basis of the evidence and argument put before them the members of the Tribunal were not convinced that my Tribunal case had no reasonable prospect of success.
- C) As for my Court claim, the University made an application that it is struck out. The particulars of that claim had been written by me and covered incidents over an extended period of time. My insurers and the solicitors failed to amend the particulars of that claim, as advised by counsel. The judge felt that because there were numerous incidents extending over a long period of time, the cost of arguing that claim would be high so the cost could not justify the outcome. That was because even if I got the Declaration I had asked for there was no guarantee my employers would change their conduct or rectify their breaches in the future. As a result my claim was struck out without any judge ever hearing my complaints or seeing my evidence.

D) While the Discrimination claim was being dealt with in the Tribunals, the harassment at work stopped. However immediately after I withdrew the Discrimination claim the harassment was resumed and escalated to my dismissal on 13/8/04.

3. I will give below some specific details supporting individual claims.

A) Breach of implied term of contract due to the employers' failure to maintain trust and confidence:

The mistreatment I suffered in the hands of my management involved persistent, excessive and unjustified criticism and fussing, false allegations, undermining, exclusion, insulting me before colleagues, refusal of holiday, double standards, dishonesty and overall treatment consistent with harassment and victimisation. I was constantly invited to disciplinary hearings for no good reason. Overall I was treated unfairly and unreasonably. This treatment involved breaches of the university rules and the law and my contract.

I tried on several occasions to have my problems addressed by putting grievances in accordance with the university procedures. I put grievances on 27/7/99 and in November 1999. These grievances were not addressed. I was offered a sabbatical to do research that (unknown to me at the time) was designed by personnel and my line management as a means of entrapment to lead me to more disciplinary hearings. I put another grievance on 20/7/01. There was a hearing (on 14/1/02) and an appeal to the Vice Chancellor (on 10/4/02). I was pressured and threatened not to proceed with a further appeal to the Governors. Documents acquired through the Data Protection act show that before June 2002 management had plans to dismiss me because of these grievances and the appeal. Despite the threats I proceeded with an appeal to the Governors (on 14/6/02). The formal outcome was that the parties ought to discuss a constructive way forward. No discussion with me took place, nothing constructive happened. Instead my grievances resulted in further harassment and victimisation.

Because I felt that the Personnel Director and Vice Chancellor were parties to the harassment and victimisation against me, I turned to the Board of Governors (on 12/8/02, 3/9/02, 7/4/04, 20/6/04) asking them to deal with my grievances. They refused to do so. My attempt to take legal action against my employers led to further harassment and victimisation and I was finally dismissed on 13/8/04.

For all the above reasons I lost all trust and confidence in my employers. I claim that they have been in breach of the implied term of contract relating to the employer's obligation to maintain trust and confidence for many years prior to the termination of my employment.

B) Unfair Dismissal:

One of the grounds used in order to criticise me, threaten me, take disciplinary action against me and dismiss me was that I was partly working from home. I partly worked from home ever since I joined the University. That was consistent with my employment contract and is the accepted practice among academic staff at Kingston University and all other universities. On 25/10/02 new rules were announced restricting the place of work. I was not prepared to change my pattern / place of work unless I was given good reasons for doing so. The university did not give me good reasons. I insisted that their instructions and threats were in breach of my contract (see paragraph 3(D) below). I also said this request was an act of victimisation. In response to the threats for dismissal I said I would change my pattern / place of work to avoid dismissal but I would take action to assert my rights. Accordingly I asked the Vice Chancellor for clarification whether according to the university procedures and practices a pattern/place of work such as mine (which was commonly practised in the university) was grounds for dismissal. If that was so, I asked why other members of the university were not being threatened or dismissed for having similar

pattern/place of work as mine. I received no answer, instead the University proceeded with my dismissal.

I claim that my dismissal was unfair, as there were no reasonable grounds to dismiss me, I claim that what led to my dismissal was unfair and unreasonable. I claim that the true reason for my dismissal was harassment and victimisation.

C) Victimisation:

The treatment I was subjected prior to my dismissal and the dismissal itself were acts of victimisation. I also believe that in particular the fact that I had taken legal action against my employers in 2003 contributed to this adverse treatment. I believe that my continued objection to the victimisation and my statement that I would assert my rights also contributed to this treatment. I therefore make an additional claim for victimisation under the Discrimination acts. The persons directly responsible for this victimisation were: my direct line manager Professor J Morris, his line manager and Dean of the Faculty of Science Professor R Davis, the Personnel Director Mrs E Lanchbery and the Vice Chancellor Professor P Scott.

D) Breach of express term of contract relating to my place of work:

My employment contract contains an express term about the place of work. It can be seen in paragraph 5 of the STATEMENT OF PARTICULARS ACADEMIC STAFF, under the title PLACE OF WORK. The place of work is to be agreed between my self and my Dean. As discussed above I was told to change my place of work. There was no consultation let alone agreement. There were no good reasons for the university to ask for that change. This request was a means of victimising me and harassing me. I claim that my employers are in breach of the express term of contract relating to my place of work.

E) Breach of express term of contract relating to Notice:

According to paragraph 16 of the STATEMENT OF PARTICULARS ACADEMIC STAFF, under the title NOTICE PERIOD, I am entitled to 6 month notice. In the letter of 13/8/04 communicating my dismissal, the Vice Chancellor indicated I will be paid 6 months pay in lieu of notice. I have not been paid that money. I have been communicating with the university about this matter. If they do not pay me this money I reserve the right to include the above breach in my complaint.

Regina Benveniste