



Bulletin 162

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SUCCESSFUL AGE CLAIM FOR 42 YR OLD BANKER WHO DID NOT FIT “YOUNGER” PROFILE

An employment tribunal has found that an employee who was dismissed on grounds of redundancy while his employer was actively seeking to recruit a “younger” replacement was unfairly dismissed and subjected to age discrimination. In *Beck v Canadian Imperial Bank of Commerce* the 42 year old Head of Marketing argued that his employer, the Bank, had dismissed him to make way for someone younger and that his redundancy was in fact a sham.

The Bank argued that the use of the word “younger” in its recruitment brief simply meant less senior or experienced however the tribunal was not convinced and found that the Bank’s plan was to replace the employee with another person who had the same key skills and that his role was not redundant.

The tribunal also added that the Bank’s insistence that there was a redundancy situation, despite the documentation available, undermined its credibility. The tribunal upheld the employee’s age discrimination, unfair dismissal and protective award claims.

Practical Tips

This case serves as a reminder to employers to avoid own goals by using words such as “younger” or “older” as these terms will inevitably raise a presumption of age discrimination that employers may be unable to rebut.

Furthermore insisting a dismissal which is for a discriminatory reason is in fact a redundancy will not wash with the Tribunal, will undermine credibility and could result in an increase in any compensation awarded and/or an application for costs on the grounds of unreasonable conduct.

If you require any specific advice in connection with the material contained in this bulletin, or on any other Employment Law issues, please contact: Paul Chamberlain in Manchester on 0161 836 8864, Andrew Cross in Liverpool on 0151 600 3062 or Kevin James in Preston on 01772 229847.

If you no longer wish to receive the bulletin please let us know by return e-mail to helen.calvert@brabnerscs.com

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LIVERPOOL
Horton House, Exchange Flags, Liverpool L2 3YL
0151 600 3000

MANCHESTER
55 King Street, Manchester M2 4LQ
0161 836 8800

PRESTON
7-8 Chapel Street, Preston PR1 8AN
01772 823921