

Covert recordings at grievance and disciplinary hearings may be admissible

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The EAT upheld a Tribunal's decision that covert recordings made by an employee of her disciplinary and grievance hearings

were admissible as evidence.

Ms Gosain resigned from her position in a bank and secretly recorded the public and private discussions of the panel at her grievance and disciplinary hearings. The recordings revealed the panel saying that Ms Gosain should be fired and one member of the panel stating that he was deliberately skipping issues raised in her grievance letter.

Ms Gosain brought claims for sexual harassment, sex discrimination and constructive unfair dismissal and wanted to admit the recordings as evidence but the bank objected to the admissibility of the recordings. In this instance, the EAT allowed the recordings to be submitted as evidence as they formed part of the deliberations of the panel.

Caution should be exercised when conducting grievance and disciplinary hearings following on from this case. Employers would be wise to ask employees in hearings whether or not they are making a recording and include a provision in the Staff Handbook prohibiting this conduct.

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