

Dismissal of outspoken Christian employee was discriminatory

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Dismissal of outspoken Christian employee was discriminatory

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The dismissal of an employee who expressed negative views in respect of her colleague's homosexual lifestyle was held to be

discriminatory.

Ms Mbuyi, an evangelical Christian, was employed by Newpark Childcare Ltd. A colleague, LP, complained of several incidents where Ms Mbuyi had expressed her disapproval at LP's homosexual lifestyle. As a result of this, she was invited to a disciplinary meeting during which it transpired that it was LP who had first started discussing her lifestyle and had asked Ms Mbuyi her thoughts on her living arrangements. Nevertheless, the nursery dismissed Ms Mbuyi for gross misconduct.

The Tribunal found that Ms Mbuyi had been directly and indirectly discriminated against, taking into account the fact that Ms Mbuyi had only been responding honestly to her colleague's questions. Also relevant was the fact that the provision, criterion or practice of providing a non-discriminatory environment for children would disproportionately affect evangelical Christians, who felt compelled to share their religious views.

The Tribunal noted several procedural failings in the disciplinary process which led to Ms Mbuyi's dismissal, and held that Newpark's failure to provide her with prior warning of the allegations against her meant that the decision to dismiss was not proportionate.

Although this is an interesting decision, in which religious expression and sexual orientation meet, its impact will be limited; both because it is a first instance decision, but also because it was very fact-specific. In particular, the tribunal considered that, had the employer held both LP and Ms Mbuyi accountable for having conversations that were inappropriate in a work setting, it may have come to the conclusion that the dismissal was proportionate.

Mbuyi v Newpark Childcare (Shepherds Bush) Ltd ET/3300656/14, 4 June 2015

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