

Victimising an employee for being associated with allegations of discrimination by others is unlawful

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Posted by BDBF on 9 October 2015

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It is possible for a victimisation claim to succeed where a person is treated less favourably because someone else has made an allegation of discrimination and in the employer's mind the two people are associated. There is no need for any actual connection between the person who made the allegation and the person who suffers as a result of it so long as the employer perceives them as associated.

Mr Thompson was a bus driver for London Central Bus Company Ltd. He had told his manager about a conversation he had overheard in which colleagues were suggesting that the bus company had breached the Equality Act 2010. Shortly after that, he was given a 21-day unpaid suspension and a final written warning after an incident in which he gave his high visibility vest to another employee. Mr Thompson complained that he had been subjected to the disciplinary procedure because the bus company had associated him with the colleagues who had made the allegation of discrimination, partly because

they were members of the same trade union.

The Employment Appeal Tribunal held that Mr Thompson's claim for associative victimisation could succeed without the need for any particular relationship between him and the protected acts of other people. The link between the person receiving the detriment and the person responsible for the protected act can exist solely in the employer's mind; therefore, all that was relevant was whether the overheard conversation was the reason for the bus company putting Mr Thompson through a disciplinary process.

Thompson v London Central Bus Company Limited UKEAT/0108/15

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