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NEWS REPORT

Country:	United Kingdom
Title:	Reasonable adjustment; G4S Cash Solutions v Powell
Date:	9 January 2017
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<u>Context</u>	
Issue at stake:	Whether the duty to make adjustments for disability includes payment at higher rate for work usually paid at lower rate
Ground of discrimination:	Disability
Source:	National Court Decision, UK Employment Appeal Tribunal (EAT)
Field:	Employment
Applicable law:	Equality Act 2010

Content

Case law development:

The claimant became disabled through a back injury and was moved to a new role. His pay was kept the same even though the usual pay for the new role would usually be lower. The claimant believed that the offer of this role was long-term, but the next year the employer notified the claimant that continued employment would be at a lower rate of pay. The claimant was dismissed after he refused to accept this. The Employment Tribunal found that this was discriminatory on grounds of disability. A reasonable adjustment would be to continue to pay at the higher rate.

Decision of the Court:

The EAT upheld this finding. By failing to continue to pay at the higher rate, the employer had failed to make a reasonable adjustment to the employee's disability. On the facts, the main reason for not paying at the higher rate was that other workers would be unhappy. This reason was not a good reason to refuse to accommodate, and so the Employment Tribunal's decision that there was a failure to make a reasonable adjustment was upheld.

Key points of analysis:

The EAT acknowledged that this decision involves an element of positive discrimination as the claimant was treated more favourably than others by being paid at a higher rate than the job would usually warrant. However, the additional pay was easily affordable for the company. The case confirms that disability discrimination allows for disabled workers to be treated more favourably than other workers.

Internet link source:

http://www.bailii.org/uk/cases/UKLAT/2016/0243_15_2608.html.