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NEWS REPORT

Country:	United Kingdom
Title:	Court of Appeal ruling on disability discrimination; United First Partners Research v Carreras [2018] EWCA Civ 323
Date:	6 March 2018
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<u>Context</u>	
Issue at stake:	Meaning of 'provision, criterion or practice' in disability discrimination
Ground of discrimination:	Disability
Source:	National court decision, United First Partners Research v Carreras [2018] EWCA Civ 323
Field:	Employment
Applicable law:	Equality Act 2010

Content

Case: The Claimant was an analyst in an independent brokerage and research firm. The job involved working very long hours, typically from about 8 or 9 in the morning to between 9 and 11 in the evening. Following a cycling accident, the claimant experienced serious symptoms of dizziness, fatigue and headaches, and as a result was not able to work the same hours as before. Although on his return to work he worked shorter hours, over time he was asked to work later in the evenings and an expectation began to develop that he would continue to do so. Eventually the claimant resigned, claiming, among other things, disability discrimination. The Employment Tribunal (ET) held that there was no discrimination as there had only been an expectation that the claimant should work long hours, it had not been required by the employer. The ET held that there had to be a requirement to work long hours, equivalent to coercion, as opposed to a mere expectation, before disability discrimination was made out. The Employment Appeal Tribunal (EAT) overturned the ET decision, finding that the approach to disability discrimination based on a provision, criterion or practice (PCP), had been too narrow: the term "requirement" did not necessarily assume "coercion" but might only represent a strong form of request.

Decision of the Court: The Court of Appeal (CA) upheld the decision of the EAT. It had been made clear to the claimant that he was expected to work long hours by a pattern of repeated requests, and this had created pressure on him to agree. This could amount to a PCP and thus amounted to a requirement for the purposes of the disability discrimination claim.

Key points of analysis: The case confirms that tribunals should not use too narrow or technical an approach in considering whether a provision, criterion or practice applies in a disability discrimination case. In addition, employers should be aware that repeated requests to work in a particular way, such as working longer hours, can lead to pressure

on employees to comply, and that this can amount to a PCP or requirement to work in the way requested.

Internet link source: <http://www.bailii.org/ew/cases/EWCA/Civ/2018/323.html>

Accessed 5 March 2018.