

Dismissal for absence caused by post-natal depression was not discriminatory

```
[et_pb_section admin_label="Section" global_module="136"
fullwidth="on" specialty="off" transparent_background="off"
background_color="#ffffff" allow_player_pause="off"
inner_shadow="off" parallax="off" parallax_method="off"
padding_mobile="off" make_fullwidth="off"
use_custom_width="off" width_unit="on" make_equal="off"
use_custom_gutter="off"] [et_pb_fullwidth_code
global_parent="136" admin_label="Post
Header"] [Page_Header_Start] Employment Law News
[Page_Header_End] [/et_pb_fullwidth_code] [/et_pb_section] [et_pb
_section admin_label="section"] [et_pb_row
admin_label="row"] [et_pb_column type="3_4"] [et_pb_text
admin_label="Text" background_layout="light"
text_orientation="left" use_border_color="off"
border_color="#ffffff" border_style="solid"]
```

Dismissal for absence caused by post-natal depression was not discriminatory

[post_details]

[Social-Share]

[post_tags]

The EAT recently held that it is not discriminatory to dismiss a woman for absence due to post-natal depression where that

absence continues after the end of her maternity leave. Where an employee is absent after her maternity leave due to a pregnancy related illness, the employer is entitled to take into account the absence after maternity leave and compare that period with any period of sickness of a man.

The claimant, Ms Lyons, worked as an advisor for a job centre. Prior to her pregnancy, she had suffered from depression which had led to several periods of sickness absence. She later became pregnant and was due to return to work at the end of her maternity leave on 17 September 2010. Following the birth of her child, Ms Lyons was diagnosed as having 'moderately severe post-natal depression'. She was still suffering from this in September 2010 and her GP signed her off on sick leave. She did not return to work and her employer dismissed her on capability grounds in March 2011.

Ms Lyons brought claims for pregnancy discrimination, direct sex discrimination and unfair dismissal. The EAT held that although she had been unfairly dismissed, she had not suffered pregnancy discrimination as the treatment of her employers towards her occurred some months after the end of her period of maternity leave. It also found that there was no sex discrimination as to succeed in such a claim, Ms Lyons would have to establish that the employer had treated her absence in a way that was less favourable than it would have treated a hypothetical or actual male comparator with the same absence. Ms Lyons had not argued that she had been treated less favourably than a hypothetical male comparator and therefore her claim for sex discrimination could not succeed.

The decision confirms that there is no additional protection under the Equality Act for periods of pregnancy-related illnesses which are outside the period of maternity leave.

[/et_pb_text][et_pb_column]

```
type="1_4" ][et_pb_sidebar      admin_label="Sidebar"
orientation="right" area="sidebar-1" background_layout="light"
remove_border="off" ]
[/et_pb_sidebar][[/et_pb_column][[/et_pb_row][[/et_pb_section]
```