Teacher’s dismissal for showing horror film to pupils was discriminatory

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An employer’s decision to dismiss a disabled employee for gross misconduct which was seemingly unrelated to the disability amounted to discrimination arising from disability.

Mr Grosset was Head of English at a school operated by the City of York Council. He suffered with cystic fibrosis, which the Council agreed amounted to a disability. As a result of his condition, Mr Grosset had to spend up to 3 hours a day doing gruelling physical exercise to clear his lungs.

A new Head Teacher was appointed who brought in various new initiatives at the school, leading to an increase in Mr Grosset's workload. Given the time he had to spend exercising, the additional workload proved very stressful to Mr Grosset, and the stress in turn exacerbated his cystic fibrosis.

During this period, Mr Grosset showed 'Halloween', a violent horror film with a certificate of 18, to a group of vulnerable 15 and 16 year olds. The Council suspended Mr Grosset pending an investigation into potential gross misconduct. When interviewed, Mr Grosset agreed that he had made an error of judgment but explained that he had been under significant stress, contributed to by his cystic fibrosis. The medical evidence available to the Council at the time did not suggest any link between Mr Grosset's disability and his decision to show the film. As a result, the Council took the decision to dismiss Mr Grosset.

Mr Grosset brought claims in the Employment Tribunal against the Council, including the allegation that his dismissal amounted to discrimination arising from his disability.

Medical evidence produced during the course of proceedings suggested that there may be a medical link between Mr Grosset's behaviour and his disability. On that basis, the Employment Tribunal and the EAT found that the dismissal amounted to discrimination arising from disability. By contrast with the law on reasonable adjustments, it was held that discrimination of this nature only requires that the employer knows of the employee's disability – it is not necessary for the employer to have knowledge of the specific consequences of the disability. Therefore, although it was

reasonable for the Council to determine that the misconduct was not connected to Mr Grosset's disability given the evidence it had at the time, the later evidence can still be relied on to show that the dismissal was discriminatory and was not objectively justified.

This is a rather scary case for employers, as the Council's decision to dismiss Mr Grosset on the basis of the information it had at the time seems reasonable at first glance (and indeed, Mr Grosset's unfair dismissal claim failed on that basis). The Council is seeking permission to appeal to the Court of Appeal; in the meantime, the best thing for employers to do in such a situation is to seek independent medical evidence before making a decision as to a disciplinary sanction.

City of York Council v Grosset UKEAT/00151/16

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