



EMPLOYMENT TRIBUNALS

Gilby v Countess of Chester Hospitals NHS Foundation Trust and another

PRESS SUMMARY

1. This summary forms no part of the Employment Tribunal's decision. It is provided to assist the press and the public to understand what the Employment Tribunal decided. Full details are set out in the reserved judgment and reasons issued by the Tribunal which heard the case in Liverpool in November and December 2024.
2. The claimant was employed by the first respondent ("the Trust") as its Chief Executive Officer. The second respondent, Ian Haythornthwaite, was the Trust's Chair.
3. In 2022 the claimant raised concerns about the behaviour of Mr Haythornthwaite which the Tribunal found amounted to protected disclosures (i.e. whistleblowing). As a consequence of those disclosures the claimant was subjected to a course of detrimental treatment which the Tribunal concluded was designed to force her out of the Trust. Senior officers, including Mr Haythornthwaite, formed a group called "Project Countess" to engineer the claimant's exit from her employment.
4. There were discussions about departure under a Compromise Agreement but they failed because the respondents insisted that the claimant withdraw her allegations about Mr Haythornthwaite.
5. Subsequently the claimant was suspended pending an investigation into misconduct allegations, allegations which the Tribunal found had no basis.
6. During suspension the claimant did not have access to all of her personnel file, and it transpired that a number of key documents went missing and/or were destroyed, including previous favourable appraisals, mobile phone messages

and emails. The Tribunal drew adverse inferences from unexplained absence of those documents.

7. The claimant resigned her employment, and the Tribunal found that this was a “constructive dismissal” because it was caused by a fundamental breach of contract by the Trust. The dismissal was found to be automatically unfair because the principal reason for the treatment which forced her out was her protected disclosures.
8. The claimant succeeded in her claims of unfair dismissal and whistleblowing detriment. The compensation which is due to her will be determined at a later hearing.