

Employment E Brief No. 97

For further
information contact:

Judith Ellery

jellery@metcalfes.co.uk

0117 9453080

Paul Seath

pseath@metcalfes.co.uk

0117 9453084

£195,165 AWARDED TO A DISABLED COURT USHER FOLLOWING THEIR EMPLOYER'S FAILURE TO REORGANISE THE WORKING DAY.

A huge award has recently been made against an employer who failed to adjust the working day of an individual who became disabled during her employment. The individual spent a lot of time on her feet but in 1996 developed a foot condition. It was exacerbated by the prolonged standing and walking that she had to do. She told her manager.

Between March-June 1999 she was sick. When she returned and asked to have her role adjusted so that she could spend more time sitting down, her request was rejected. She repeated the request the following year but it was rejected again. In 2001 she was absent for four months because of the condition. The medical evidence was that the condition was going to continue but that the effects could be kept to a minimum if she could rearrange her working day as she was asking. The management still refused to make the adjustments. In its view the adjustment being sought was not practical.

The individual resigned and successfully claimed discrimination and unfair dismissal. The employment tribunal found that the refusal to make the changes she asked for was based on the company's inflexible view as to its duty. The company's argument that the change would not have prevented the substantial disadvantage she suffered was rejected.

The tribunal went on to say that the company's persistent and repeated failure to make the adjustment which was reasonable in the circumstances entitled the individual to resign and claim constructive dismissal.

The largest element of the compensation package was her future loss. £15,000 was also awarded for injury to feelings.

This clearly serves to remind employers of the importance of their duty to make reasonable adjustments and the consequences that can follow if they fail to do so.

29th March 2005