

When is enough, enough?

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CASE STUDY

- November 2003 : claim for CTS; limited to £15,000
- January 2004 : surgical compression to alleviate symptoms
- June 2004 : return to work – restricted duties
- July 2004 : management request return to normal duties
- July 2004: Occupational Health Department certify “no vibratory tool use”
- August 2004 : further absence from work
- September 2004 : disciplinary hearing
- October 2004 : dismissed
- November 2004 : appeal refused

IMPACT

- Civil claim : amended to £150,000.00
- Industrial Tribunal proceedings : DDA and unfair dismissal

CIVIL CLAIM – QUANTUM POTENTIAL

- General Damages
- Disadvantage on the labour market
- Future loss of earnings

DISABILITY DISCRIMINATION

“A person has a disability ... if he has a physical or mental impairment which has a substantial and long term effect on his ability to carry out normal day to day activities”

- Duty to make “reasonable adjustments”
 - * Allocating some of the employee’s duties to another employee
 - * Assigning the employee to a different place of work
 - * Acquiring or modifying equipment
- Failure to make a reasonable adjustment – stand alone breach of DDA
- No statutory limit on damages

THE KEYS TO EFFECTIVE CLAIMS MANAGEMENT IN HAVS

- Prevention better than cure.
- Early notification to insurer.
- Effective communication involving management, occupational health, HR and insurers/solicitors.