

Redundancy Dismissal and Age Discrimination

A recent case (Killa v Electronic Motions Systems Ltd.) illustrates the danger when making redundancy dismissals of failing to use objective criteria or a proper selection process to determine which employees are to go, and of not offering employees suitable alternative work where this is available.

59-year-old Mr Killa was employed by Electronic Motions Systems Ltd. as an electronic engineer. He was selected for redundancy without a proper selection process based on objective criteria being applied. At the end of the first redundancy consultation meeting, he was dismissed with immediate effect and asked to leave the company's premises. He was not allowed to return to work. Although suitable alternative work was available, this was not offered to Mr Killa.

Mr Killa brought a claim of unfair dismissal and age discrimination. The Employment Tribunal (ET) found that his dismissal was unfair, both procedurally and substantively, and, as his employer could not explain the reasons for its actions, his selection for redundancy dismissal amounted to age discrimination.

The ET found that Mr Killa had done all he could to mitigate his loss by trying to find a new job, including training as an electrician to make it easier to find work.

The ET observed that 'it is not, unfortunately, the case that someone aged 59, 60 or over competes on a level playing field with younger people. The reality is that age discrimination exists and is likely to be highly influential in limiting his opportunities'. Mr Killa was awarded compensation of £90,361, including loss of earnings, loss of benefits and damages for injury to feelings on account of the manner in which he was dismissed.

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