

MATA

Mediation and Training Alternatives

MRS BROWN and HEALTHCARE NHS TRUST

General Information

Background

Mrs Brown is employed as a school nurse by the Healthcare NHS Trust. Her duties include visiting designated schools to undertake school medical examinations and also to promote health in taught classroom sessions.

On January 15 2005, Mrs Brown drove into the car park of the Health Centre, at which she was based. She had returned from teaching children at the Bash Street School and was returning equipment and teaching aids which she had taken to the school that morning.

There had been heavy snow over several days and the car park was rutted with patches of snow and ice.

Mrs Brown got out of her car and walked carefully round to the boot, from which she lifted the large box containing the equipment she had used.

As Mrs Brown turned to walk into the health centre, she slipped on the ice and was thrown backwards, sustaining injury to her lower back and severe pain in her head and neck.

Mrs Brown was assisted into the Health Centre by the centre manager, who had observed the incident and an ambulance was called to transfer her to hospital.

Mrs Brown had sustained a fracture to the coccyx, a bone at the base of her spine, and had severe "whiplash" injury.

Mrs Brown was unfit for work for a period of eight months and, on returning to work, found that she was unable to sit or stand for long periods and the effects of the whiplash injury prevented her carrying large items.

The Dispute

Mrs Brown is claiming £25,000 damages for pain and suffering, loss of earnings for two months whilst on half pay - £2,500.00 and the cost of domestic support in her home, amounting to £25 per week - £1,300 per year, for the cost of employing a cleaner for the heavy domestic chores she can no longer undertake, due to the ongoing pain and disability caused by the accident.

Healthcare NHS Trust regards her claim as ridiculous, stating that they cannot be held responsible for the fact that an employee slipped on ice.

Attending the Mediation

Mrs Brown
Royal College of Nursing Solicitor

Healthcare NHS Trust Divisional Manager
Solicitor

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Confidential Information for the Brown team

Generally

Mrs Brown is very upset and wishes that she had never started the whole thing,

She is frightened that she will lose her job. She enjoys working and needs her salary. She is eligible to retire in two years time, when she will be fifty-five. However, she had planned to work until she was sixty.

She is not able to sit or stand for long periods without lower back pain and is unable to carry equipment into schools or back to the Health Centre, where it must be stored in order to be available to her colleagues. She fears that she will not be able to continue as a school nurse until retirement, even if the Trust don't use this as an excuse to get rid of her.

Mrs Brown has heard "on the grapevine" that the nurse responsible for the audiology clinic is leaving and, had she not been in this dispute with her employer, she would have applied for the job in any event. Now that she is unable to lift or carry, it would be an even more attractive job relocation.

Mrs Brown was amazed when her solicitor informed her that they would demand £25k for pain and suffering. The claim for domestic support was equally surprising. She does have difficulty undertaking some household chores, but her family support her and she wouldn't want to have a domestic cleaner.

She did spend £4,300 on physiotherapy and acupuncture to her neck and lower back and in purchasing an orthopaedic pillow and she would like to have that money reimbursed.

She did go onto half-pay for two months prior to returning to work. However, she received sickness benefit which, in addition to not having had the expense incurred in going to work, left her marginally better off than she would have been on full pay.

Mrs Brown has told the RCN solicitor that she is losing sleep over this and wishes she had never been persuaded to sue her employer. She feels embarrassed that any compensation paid to her will be money not available for the “real” work of the trust, which is providing healthcare for the population of the area in which Mrs Brown lives.

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Confidential information for the Healthcare team

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Healthcare NHS Trust denies that they are liable for the state of the Health Centre car park, claiming that Mrs Brown should have taken more care, as the packed snow and ice was clearly hazardous.

They claim that Mrs Brown was foolish to attempt to carry a large box of teaching aids when the ground underfoot was slippery.

However, Healthcare NHS Trust is aware, having been informed by the Health Centre manager, that three other members of staff had fallen on the ice that morning, without sustaining injury. The manager had instructed the caretaker, in front of other staff, to “Clear a safe path and put some gravel down before someone really hurts themselves”.

The caretaker had ignored the instruction.

The Trust does not want this case to come to trial. They are aware that a number of staff have suffered minor injuries in the course of their work and they do not want any publicity which will encourage a spate of similar claims.

They consider Mrs Brown’s claim for compensation and suffering to be excessive.

They acknowledge that a severe whiplash will potentially cause Mrs Brown long-term difficulty with respect to carrying heavy items and undertaking “heavy” household chores.

They consider that Mrs Brown is trying to “work her ticket” to gain early retirement on grounds of ill health.

The Trust representative has examined Mrs Brown’s personnel file and noted that, in her pre-employment medical questionnaire, completed twenty years prior to the injury to her lower back, she had stated that she had sustained a fracture to her coccyx ten years previously, that is, thirty years prior to the accident in January 2005.