



Mediation Case Study

Barrie/Brenda Black and Anytown NHS Board

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General Instructions

Barrie/Brenda Black (BB) has worked for Anytown NHS Board (the Board) for 20 years. Two years ago, the manager in BB's department retired. BB was not offered the position. A new General Manager (Mickie/Michelle Simkin (MS)) was brought in from another Board. BB did not get on with the new manager. BB became ill and was unable to return to work for a period of three months. BB's GP diagnosed work-related stress. While BB was off work, there was a reorganisation of the management structure in the Board which left BB feeling unhappy with the position.

BB has attempted to return to work on a number of occasions but has been unable to remain at work for more than a week at a time. BB's colleagues have carried the extra load in an already busy department. BB has had meetings with MS but these have been unproductive in finding a way forward. BB is currently receiving sick pay and has reached the age of 50 which, in terms of the employers' sickness arrangements, makes BB eligible for retirement on the grounds of ill health.

BB's solicitors have indicated to the Board that BB may accept retirement on full pension based on reorganisation and efficiency of the service, with a lump sum in addition. The Board has indicated that it cannot agree to this as the decision about pension entitlement is made by the independent pension agency. BB's solicitors have indicated that, unless a satisfactory outcome is achieved at the mediation, BB will sue for damages for personal injury caused by unsatisfactory work conditions, plus damage to reputation. They have also said that they reserve BB's right to resign and claim constructive dismissal and disability discrimination.

The Board have recently offered:

- early retirement to BB on grounds of ill-health with a small lump sum payment and pension based on actual service with a modest enhancement.
- an assurance that, if BB wished to return to work in a different capacity, the Board would do what it could to find alternative employment.

This has not been acceptable to BB. The parties have failed to make progress in recent months. The Board has suggested mediation. BB has agreed to this on the advice of BB's solicitors.

In pre-mediation discussions, both sides have indicated that they favour a resolution which brings BB's employment to an end. However, the Board has said it will try and find alternative employment for BB if necessary.

The Board is represented by Mickie Simpkin the General Manager of the Board and the Board solicitor Mo Kitchen. BB is attending with his/her solicitor, Jackie Buchan. BB has indicated unhappiness about meeting anyone associated with the Board at the mediation.