



## Employee denied phased return to work wins £29,000.

An employee who was denied a phased return to work after having extensive surgery on both of her wrists has been awarded over £29,000 in compensation by the tribunal.

**Let's take a look at what went wrong and what was the legal issue here?**

### Long-term condition

In 2013 Leslie Bristow (B) was diagnosed with carpal tunnel syndrome in both of her wrists. This is a nerve-related condition which causes numbness, weakness and tingling in the thumbs and fingers.

In November 2018, B began working as a night duty care assistant for Craigard Care (C).

### Surgery needed

Later, in early 2021, B underwent surgeries on both of her wrists to alleviate the symptoms caused by her carpal tunnel syndrome. Unfortunately, the surgeries caused further issues which resulted in B being absent from work for over a year.

In February 2022 B's doctor recommended that she could return to work on "light duties", in this case, a "phased return to work".

### A phased return

B, therefore, arranged to meet with her employer and a senior manager, Janene Whyte (W), also attended that meeting. B explained her doctor's advice and that she could now start back at work on two three-hour shifts each week.

Upon hearing this, W aggressively replied: "Don't think you can just swan in here when you feel like it and say you're coming back to work... If you can't do a full shift, there's no job here for you!"

### Further meeting

B was then asked to attend a further meeting on 3 March 2022. However, she became fearful that she would be treated in a similar way by W.



## Constructive Dismissal

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### So, what went wrong?

The employer in this case lost because the employee's request for a phased return on medical advice - which was a reasonable adjustment in this instance - was dismissed out of hand.

The tribunal further concluded that B was entitled to treat this as a "last straw" event, entitling her to resign and claim constructive dismissal.

### Spectra HR's opinion

Don't dismiss a request for a phased return to work (or any recommendation for a reasonable adjustment) following sickness absence without giving it full consideration, especially if it is made following medical advice.

If you are unsure whether a phased return is suitable, seek independent occupational health advice.