EMPLOYMENT TRIBUNAL CASE STUDY

**BRIEF**

*Davies v Remploy Ltd ET/2407487/09*

Mr Davies worked as a full-time GMB union steward, and as an employee of Remploy, which provided employment and employment-related services for disabled people. He has mobility problems and is a wheelchair user. On 4 March 2009, the GMB sent a grievance to the company on Mr Davies’ behalf. The grievance alleged that Mr Davies had received evidence that Mr Wellens, a factory manager at the company’s Burnley site, had made insulting and offensive comments about Mr Davies’ disability.

The grievance alleged that Mr Wellens had, on several occasions, in Mr Davies’ absence referred to him as “Ironside”. This was in reference to a popular television series called “Ironside”, about a former police detective of the same name, who used a wheelchair after a sniper’s bullet paralysed him from the waist down. Mr Davies was shocked by Mr Wellens’ alleged comments, and later gave evidence that when he was young he felt bullied when people had called him “Ironside”.

A manager investigated Mr Davies’ grievance and upheld it, but found that there had been no deliberate intention on Mr Wellens’ part to insult or demean Mr Davies or his disability. Mr Davies received a copy of the investigation report, which found that he and Mr Wellens shared a large degree of antipathy towards each other, and that he had called Mr Wellens a “bastard” and said he would “rip his head off and shit down his throat”. Nonetheless, the grievance officer made a number of recommendations for the company, including that all employees be discouraged from referring to Mr Davies as “Ironside”.

Mr Davies’ appeal against the grievance outcome was upheld. The appeal officer found that Mr Wellens’ use of the nickname contravened the company’s bullying and harassment policy, and did cause offence to Mr Davies. He found that Mr Wellens was wrong not only to use the nickname, but also to condone its use at the Burnley site. A general manager apologised to Mr Davies on the company’s behalf, and the company took disciplinary action against Mr Wellens.

Mr Davies brought a claim of disability harassment. The company argued that Mr Davies regularly introduced himself as “Ironside”, and that his use of foul language regarding Mr Wellens meant that he could not have been genuinely offended by the use of the nickname.