



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant
Miss D Wills

AND

Respondent
(1) Oakland Care Services Ltd
(2) Miss R Mawji

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD AT Birmingham **ON** 18 to 22 September 2017

EMPLOYMENT JUDGE Hughes **MEMBERS:** Mrs D P Hill
Mr D Faulconbridge

Representation

For the Claimant: In person

For the Respondents: Mr S Jagpal, Consultant

JUDGMENT

The unanimous judgment of the tribunal is that:

1 The claimant was unfairly dismissed. If a reasonable procedure had been followed the claimant would have been dismissed four months later. The Recoupment Regulations apply.

2 The respondents are ordered to pay the sum of £2304.80 as compensation for unfair dismissal of which £1393.60 is subject to recoupment.

3 The respondents failed to make reasonable adjustments by not allowing the claimant to use a desk and chair in the manager's office to complete administrative work and by failing to allow the claimant to return to work from sick leave on a phased basis.

4 The claimant's dismissal was unjustified unfavourable treatment because of something arising in consequence of her disability i.e. her sickness absence.

5 The claimant's claim in respect of disability related harassment is not well-founded and is hereby dismissed.

6 The respondents are ordered to pay the claimant the sum of £7000.00 as compensation for injury to feelings.

7 The sum awarded in respect of unfair dismissal and injury to feelings is £9304.80 which is increased by 10% because of the respondents' failure to follow the ACAS Code. The total amount payable by the respondents is £10,235.28.

8 The claimant's application for costs is refused because there are no grounds to award costs.

Employment Judge Hughes
22 September 2017

Note: Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

Claimant
Miss D Wills

and

Respondent
(1) Oaklands Care Services Ltd
(2) Miss R Mawji

ANNEX TO THE JUDGMENT OF THE TRIBUNAL

Statement Relating to the Recoupment of Unemployment etc Benefits

1. The following particulars are given pursuant to the Employment Protection (Recoupment of Job Seeker's Allowance and Income Support) Regulations 1996, SI 1996 No 2349.

- (a) Monetary award for unfair dismissal: £2304.80
- (b) Prescribed element: £1393.60
- (c) Period to which (b) relates: 19 March to 18 June 2016
- (d) Excess of (a) over (b): £911.20

The claimant(s) may not be entitled to the whole monetary award. Only (d) is payable forthwith; (b) is the amount awarded for loss of earnings during the period under (c) without any allowance for unemployment benefit or supplementary benefit received by the claimant in respect of that period; (b) is not payable until the Department of Employment has served a notice (called a recoupment notice) on the respondent(s) to pay the whole or a part of (b) to the Department (which it may do in order to obtain repayment of unemployment or social security benefit paid to the claimant(s) in respect of that period) or informs the respondent(s) in writing that no such notice will be served. The sum named in the recoupment notice, which will not exceed (b), will be payable to the Department. The balance of (b), or the whole of it if notice is given that no recoupment notice will be served, is then payable to the claimant(s).

2. The Recoupment Notice must be served within the period of 21 days after the conclusion of the hearing or 9 days after the judgment is sent to the parties, (whichever is the later), or as soon as practicable thereafter, when the judgment is given orally at the hearing. When the judgment is reserved the notice must be sent within a period of 21 days after the date on which the judgment is sent to the parties, or as soon as practicable thereafter.

3. The claimant(s) will receive a copy of the recoupment notice and should inform the Department of Employment in writing within 21 days if the amount claimed is disputed. The tribunal cannot decide that question and the respondent(s), after paying the amount under (d) and the balance (if any) under (b), will have no further liability to the claimant(s), but the sum claimed in a recoupment notice is due from the respondent(s) as a debt to the Department whatever may have been paid to the claimant(s) and regardless of any dispute between the claimant(s) and the Department.

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