



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Miss Hannah O'Brien

v

Circles Montessori Day Nurseries Ltd

Heard at: Watford

On: 30 April 2018

Before: Employment Judge Bedeau

Appearances

For the Claimant: In person

For the Respondent: Did not attend nor represented

JUDGMENT ON REMEDY

1. The respondent is ordered to pay the claimant the sum of £8,000 for injury to feelings.
2. The respondent is also ordered to pay the claimant the sum of £960 interest on the above sum.
3. For the avoidance of doubt, the respondent is ordered to pay the claimant the total sum of £8,960.

REMEDY REASONS

1. This case was set down by me for a remedy hearing following the unsuccessful application by the respondent for a reconsideration of the judgment I entered in favour of the claimant on 22 May 2017 in default of a response being presented.
2. In an email dated 25 April 2018, the respondent's representative, Mr Graeme Lomas, Employment Consultant, informed the tribunal that he was no longer representing he respondent and that all communication should be forwarded to the respondent's address given on the ET3.
3. The tribunal accessed Companies House's website and ascertained that the respondent is still active though there is a proposal to strike it off the register.

Following the claimant's request, on 15 February 2018, the voluntary strike out action has been suspended.

Evidence

4. The claimant produced a witness statement and I accepted her account of her treatment and the hurt and upset caused to her after she had informed the respondent that she was pregnant in August 2016. The respondent made her feel extremely unwelcome should she decide to return to work or even to continue working. It had recruited an assistant manager on a permanent basis without the claimant's knowledge or input to the decision. This was the position she held in the company and she was not reassured by management that this was to cover her maternity leave.
5. In an email sent to her dated 6 December 2016, it was alleged by the owner of the respondent, Ms Lisa Lucas, that the claimant was pregnant when she commenced employment. In effect suggesting that she had been deceived.
6. The claimant said that she was not given the opportunity to attend staff meetings in November 2016 and felt isolated from her work colleagues. She said that she could not remember her pregnancy being a happy time for her and partly blamed the respondent and could not replace that time. She was due to start the Early Year's Teacher Status Course at Bedford University in October 2017 to coincide with her return to work but it had to be cancelled because she needed a supportive letter from the respondent but although she had asked for it, the respondent failed to provide it to her. As a result, she had to cancel her place at the university.
7. She gave birth to twins and they are now 15-months old. She has a 7-year-old child. She is the sole carer as she has separated from her long-term partner and the father of her children.
8. She stated that she has decided that she no longer would like to work in a nursery and would be looking at training to become a teacher, embarking on a course in September 2019. To this day she is unclear why she had been discriminated against by the respondent because of her pregnancy.

The law

9. An Employment tribunal may order a respondent to pay compensation to a claimant under section 24(2)(b) equality Act 2010.
10. In relation to an award for injury to feelings, section 119(4) of the Act states,

“An award of damages may include compensation for injured feelings (whether or not it includes compensation on any other basis.)”
11. I have considered the cases relevant at the time of this judgment on the levels of injury to feelings awards, namely *Vento v Chief Constable of West Yorkshire Police (No 2)* [2003] ICR 318, a judgment of the Court of Appeal and *Da'Bell v NSPCC* [2010] IRLR19, a judgment of the Employment Appeal

Tribunal in which the Vento bands were updated. The lower band being between £600-£6,000; the middle band, £6000-£18,000 and the upper band, £18,000-£30,000. The levels depend on the period and degree of hurt and suffering. These figures have been more recently updated by the Joint Presidential Guide but it only applies to claims presented on or after 6 April 2018.

Conclusions

- 12. The claimant told me that she is seeking an injury to feelings award in the sum of £6,000. I, however, have taken in to account the matters referred to above in my findings of fact. The claimant has decided to re-orientate her life away from nursery work to become a teacher because of her experience at the hands of the respondent. To this day she still does not know why she had been treated the way she was by the respondent. During her evidence she became emotional at having to recount her treatment and the effects on her.

- 13. I have come to the conclusion that the appropriate level of award that would meet the justice in this case is the sum of £8,000 as she still suffers the hurt and upset after having first been discriminated against in November 2016.

- 14. She is entitled to interest on that sum at 8 percent. This is 18 months interest giving the figure of £960. The total award including interest is, therefore, £8,960. The respondent is ordered to pay her that sum.

Employment Judge Bedeau

Date: 11 May 2018

Sent to the parties on:

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For the Tribunal Office