



EMPLOYMENT TRIBUNALS

Claimant

Mrs L Sullivan

v

Respondent

Mr Steve Parsons T/a Cawston
Post Office & Stores

Heard at: Norwich

On: 29 August 2018

Before: Employment Judge Postle

Appearances:

For the Claimant: Mrs S Davenport, Solicitor

For the Respondent: In person, Mr S Parsons

JUDGMENT ON REMEDY

Employment Tribunals Rules of Procedure 2013 – Rule 21

1. The respondent is ordered to pay total compensation to include injury to feelings to the claimant, the sum of £9,799.09.

REASONS

1. Following the respondent's application to set aside the judgment in default, which was not successful (see separate judgment), the tribunal then proceeded to deal with the remedy. Miss Sullivan entered the witness box for the purposes of confirming the contents of her witness statement dealing with remedy were true, which consisted of 15 pages.
2. Mr Parsons was given an opportunity to question the claimant and appeared only to question the amount calculated by the claimant's solicitors for holiday pay. He disputed the fact the claimant was entitled to maternity allowance.

3. It was explained to Mr Parsons, the claimant, was not claiming statutory maternity pay which she accepted she was not entitled to, but was entitled to a maternity allowance which is 90% of earnings.
4. The tribunal noted if the claimant had continued to work in the respondent's business, had she not been dismissed she would have gone on her maternity leave on 9 December 2017 and had planned to return to work after the birth of her child.
5. When the two met on 11 August 2017, to discuss holiday, there was a dispute about holiday pay. Mr Parsons says the claimant became angry and called the respondent an offensive expletive. The claimant has a mobile phone recording of that meeting where there is no evidence of any offensive language being used.
6. She worked three days a week and her normal take home was £96 per week. Her hours per week were 12 hours. Her son was born on 25 December 2017.
7. Not surprisingly the claimant was unable to find another job following her dismissal despite making a number of applications, particularly a cleaning job, given the fact that she was pregnant, not surprisingly she found it difficult to be taken on by an employer.
8. The claimant intends to find work when her children return to school in September 2018, and believes she will be able to obtain work within 13 weeks, which is not an unreasonable period.
9. Up to the effective date of termination, the claimant accrued 18 hours and 46 minutes holiday. She had been paid eight hours holiday pay of £64 during her employment and was paid a further £15.84 in respect of holiday pay, and in her final pay she was therefore owed £70.29.
10. In addition, the claimant would have accrued holiday whilst on maternity leave and that would have been £403.20 for 39 weeks of maternity leave.
11. In relation to the assessment of compensation for injury to feelings, this is, the claimant's solicitor has suggested, falling within the lower Vento band, to which the Tribunal agrees and makes an award at £2,500 having heard from the claimant as to the effect the dismissal had on her whilst pregnant.
12. The award is as follows:
 - 12.1 Date of dismissal 12 August 2017, to the week of confinement 9 December 2017, 17 weeks x 96 £1632.00
 - 12.2 Loss of maternity allowance, from 9 December 2017, 39 weeks @ 90% of earnings (£86.40) £3369.60
 - 12.3 13 weeks @ £96 £1248.00

12.4	Accrued holiday pay during work,	£ 70.29
12.5	Accrued holiday pay during maternity leave, 39 wks	£ 463.20
12.6	A failure to provide statement of employment particulars, to that the tribunal awards four weeks' pay, of	£ 384.00
12.7	Furthermore there was a failure to provide any written reasons for dismissal, two weeks' pay, of	£ 192.00
12.8	Finally, injury to feelings award,	£2500.00
12.9	That makes the total award,	<hr/> £9799.09.

Employment Judge Postle

Date: 26 October 2018

Sent to the parties on: 26 October 2018

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For the Tribunal Office