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THE EMPLOYMENT TRIBUNALS

Claimant

Respondent

Miss M Adam

v

**Scentric Information Security
Technologies Limited**

Heard at: London Central

On: 12 November 2018

Before: Employment Judge J Wade

Members: Mr N Brockman
Mr S Soskin

Representation:

Claimant: Mr R Elcho, Free Representation Unit
Respondent: Mr J Mohammed, Head of Operations

JUDGMENT

The unanimous Judgment of the Tribunal is that: -

1. The Respondent shall to pay the Claimant compensation for injured feelings of £4,500.
2. The claimant's application to add respondents is refused.
3. The claimant's application for reconsideration of 13 February 2018 is granted to the extent of the wording in paragraph 74 of the Reasons of 30 January 2018 being amended as set out in the certificate of correction.

REASONS

1. We are sorry to hear that the claimant remains very distressed by her experience and unwell. However, we note that the medical evidence that we have been provided with today is from a nurse who has written a report in connection

with an application for Employment and Support Allowance. She is an approved disability analyst, but she's not a specialist and the report has not been compiled, purposes of this litigation and does not consider causation, so we cannot consider awarding compensation for psychiatric damage on top of injury to feelings. Incidentally, were we to do so, we would have required the claimant to provide the respondent with the report before the hearing.

2. We have found in our judgement that the respondent committed one act of discrimination against the claimant and we have to award compensation to injured feelings in relation to that. However, as the respondent says, what the claimant suffered in terms of unlawful discrimination was a small percentage of what she has, and it appears continues to, suffered, and therefore is not appropriate to make a large award of compensation for injured feelings.

3. It is important to make the distinction between the claimant being upset, which we know she was, and the claimant being upset because she has suffered an act of unlawful discrimination. It is also important that the claimant understands that the decisions we made, and the facts we found last December are facts and decisions which we, and indeed she, are bound by today. This is not the place to rewrite her experiences and in particular not the time rewrite her reasons for resigning from the employment.

4. We specifically found at paragraph 98 of our judgement that her resignation was not a constructive discriminatory dismissal. It was not a resignation in response to a fundamental breach of contract, which occurred because of discrimination on the part of the employer. Therefore, it is not appropriate to award compensation for loss of earnings.

5. As we have said, the claimant has had the experience of suffering many bad things over the last couple of years. Her perception was that she suffered serious discrimination many times during her employment. We found for her in connection with just one of those allegations. She also has the perception of having suffered many problems in the rest of her life. For example, High Court litigation, the award of costs against her in the High Court litigation, bankruptcy proceedings, homelessness, and now apparently continuing serious ill-health and unemployment. We are sorry to hear that she has been upset, but of course it is not appropriate for us to conclude that all these problems occurred because the respondent did not allow her to go on a business trip to Thailand.

6. We made quite detailed findings of the time, which would guide us as to the amount of compensation for injured feelings that we would award, and they are set out in paragraph 96 of our judgement. Those considerations in some ways support a higher award to the claimant but also note that she was to some extent the architect of her own problem. We also concluded at paragraph 97 that it would be appropriate to award limited compensation in the lower band of the Vento guidelines. Having heard the arguments today we appreciate that the claimant considers that we ought to be awarding her a higher sum, but our finding is that that would not be appropriate in all the circumstances.

7. The lower band of compensation for injured feelings under the Vento guidelines was updated in April 2018 so that the band stretches from £900, which is the very lowest to £8,600, which is the highest. We understand Mr Elcho's argument about the eggshell skull and appreciate that what many employees would have shrugged off as being irritating behaviour on the part of their employer hurt the claimant more deeply than that. Therefore, although this was in the great scheme of things a small event, we decided to make the award in the middle of the lower band hence an award of £4500.

8. The claimant asked us to add two name individual respondents to the proceedings. We are not able to do that because there was only one ACAS early conciliation certificate which was in the name of the company.

9. The claimant's application for reconsideration of 13 February did not receive a response for which the Employment Judge apologises. The claimant sought an amendment to paragraph 74 which we agree can be done so that the paragraph now reads, starting at the second sentence, "the respondent understood that she had threatened to disclose the company's intellectual property, at which point injunction proceedings started in the High Court."

Employment Judge Wade

Dated: 12 November 2018

Judgment and Reasons sent to the parties on:

14 November 2018

For the Tribunal Office