



EMPLOYMENT TRIBUNALS

Claimant: Mrs A McGrann

Respondents: 1. Neil Wynne
2. Yvonne Woods

Heard at: Liverpool **On:** 7 January 2019

Before: Employment Judge Robinson

REPRESENTATION:

Claimant: Mrs L Knowles, Solicitor

Respondents: Miss S Murphy, Solicitor

JUDGMENT

The judgment of the Tribunal with regard to remedy in this matter is as follows:

1. Yvonne Woods is removed as a respondent and the person liable to pay the compensation to Mrs McGrann as set out below is Mr Neil Wynne.
2. With regard to remedy for the successful claims for unfair dismissal, direct age discrimination, damages for breach of contract and unlawful deduction of wages, the first respondent shall pay to the claimant forthwith the total sum of £35,129.99 made up as per the schedule below.

SCHEDULE

Basic Award	£4,725.00
Loss to 7 January 2019 (including loss of statutory rights)	£13,836.91
Holiday pay	£420.00
Future loss taking into account mitigation	£6,111.86
Injury to feelings	£9,000.00

Interest on the award of injury to feelings	<u>£1,036.22</u>
Total	<u>£35,129.99</u>

The recoupment provisions do not apply.

REASONS

1. This is a hearing to deal with the remedy which I have to deal with on a just and equitable basis. This case has a long-chequered history in terms of a rule 21 Judgment being given and then reconsideration being asked for in April 2018, but the claimant's claims come to a final hearing in relation to remedy today. The claimant has been successful with regard to the liability issues in relation to her claims for unfair dismissal, direct age discrimination, damages for breach of contract and unlawful deduction of wages.
2. Today Miss Murphy on behalf of the respondent did not challenge the claimant's claim with regard to the basic award, nor the total loss to today of £13,836.91.
3. There are only four issues I have been asked to consider at today's hearing:
 - (1) Should I remove Yvonne Woods as a respondent, as a party to these proceedings (the second respondent at the moment)?
 - (2) What figure should I award for injury to feelings under the **Vento** guidelines?
 - (3) Should I award a sum for holiday pay? That does not seem to have been challenged by Miss Murphy but I will come to that in due course.
 - (4) What future loss should I award, if any, to Mrs McGrann?
4. Dealing with those contentious issues in order, I find the following facts.
5. Yvonne Woods was used by Mr Wynne as the DPS (I suppose in old fashioned parlance that is the licence holder for the Queen's Hotel) whilst Mr Wynne ran the pub with his business partner, Mr Ferguson, between July 2017 and March 2018. In March 2018 Mr Wynne's involvement in the running of the pub ceased, and I assume therefore, and I have heard nothing to the contrary, that Ms Woods' involvement also ceased. Ms Woods dealt with the Queen's Pub at arm's length. She rarely visited the Queen's and her place of work was at the Sandridge Public House in Rake Lake in Wallasey, another pub owned by Mr Wynne. She tells me that she was a barmaid there rather than anything else, and her involvement in the Queen's was limited to simply putting herself up, in effect, as the licensee. This arrangement served Mr Wynne's purpose.
6. Mrs McGrann tells me she had no dealings with Mrs Woods and had never met her. When she requested shifts, after Mr Wynne took over, she did not request shifts from Mrs Woods, she requested them from Mr Ferguson.

7. Mrs Knowles, on behalf of the claimant, tells me she is sceptical as to whether the appropriate application to remove Mrs Woods as a respondent from these proceedings has been made formally. However, I have seen an email on 12 April 2018, making that application. Consequently, I find there has been an appropriate application made to remove Mrs Woods. Applying the principles set out in the President's guidelines, namely that I have to make sure that the right parties are before me, and that if I am going to award sums of money against someone, I make an award against the correct respondent, I remove Mrs Woods as a respondent.

8. Mr Wynne is the now the only respondent in these proceedings.

9. Let me then deal with the other issues. I will deal with injury to feelings first. I have no hesitation in awarding to Mrs McGrann £9,000. This was an upsetting incident over a period of time. It may have been a one-off event i.e. the dismissal, but the repercussions have clearly gone on for a long time and are longstanding. Although Mr Wynne says he only knew Mrs McGrann for a relatively short period, the actual repercussions are potentially long standing. Mrs McGrann has been dealt with appallingly. She was an employee of the pub for a long time; her right to a job once Mr Wynne and Mr Ferguson took it over was ignored because her new employers wanted younger people than Mrs McGrann to work in the pub. When one is of the age of Mrs McGrann (who is in her 60s) it becomes much more difficult to obtain employment and to retain it. Losing her job has had a deleterious effect on her wellbeing. I accept Mrs McGrann's evidence in that regard.

10. Mrs McGrann had a right not to be treated in such a cavalier fashion, indeed her requests for shifts at the Queens were ignored once Mr Wynne took the pub over. That is not how an employee should be treated by her employer, and certainly not an employee who has given long service at the pub. This is the sort of treatment that attracts compensation in the middle band of Vento. The effect all this has had on the claimant in terms of stress and anxiety has been great. The claimant felt she would never work again because of her age, she had no explanation from the respondent as to why she was ignored and Mr Wynne did not have the courtesy to speak to her. I therefore award £9000.

11. I award the holiday pay requested. The fact it was owed, and the sum due to the claimant was not challenged.

12. The issue of future loss is a more contentious issue. Mrs McGrann has clearly mitigated her loss, and in order to get employment has sought it in a different type of employment. She is now a bus escort for a school. She should be commended for that. The claimant was 63 when she lost her job at the Queen's. She will be 66 in June 2020 when she will be entitled to her state pension. She tells me she will give up her employment then and would have finished working at the pub then. I find that is an entirely reasonable stance for the claimant to take. The claimant has a continuing loss during that period from now until 23 June 2020. She would have earned potentially £16,853.46. She is going to earn something just over £10,000 and just short of £11,000 in that period (£10,741.60), and the difference must be paid to her.

13. Consequently, the awards I make are as follows:

Basic award	£4,725.00
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Loss to 7 January 2019 (including loss of statutory rights) £	13,836.91
Holiday pay	£420.00
Future loss £	6,111.86
Injury to feelings £	9,000.00

14. In relation to interest on the award, I am going to award £1,036.22 interest on the injury to feelings award, but I am going to stop there. The interest in effect on the other award would only be payable on past financial loss, not future loss in any event. If of course the sum I award today is not paid interest will accrue on the unpaid sum, so I have made the decision not to award interest on the financial loss on a just and equitable basis. The respondent should note my comments on unpaid sums and should pay the amount awarded within 14 days if he wishes to avoid interest accruing in the future.

15. The recoupment provisions do not apply.

Employment Judge Robinson

Date 19 February 2019

JUDGMENT AND REASONS SENT TO THE PARTIES ON

21 February 2019

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