



EMPLOYMENT TRIBUNALS

SITTING AT: LONDON SOUTH

BEFORE: EMPLOYMENT JUDGE SPENCER

MEMBERS: MS V BLAKE
MS S MURRAY

BETWEEN: Ms M ZEMBRZUSKA
MR P PASTERNAKIEWICZ CLAIMANTS
MS A GRZYWACZ

AND

PRIME HOTELS LIMITED RESPONDENT

ON: 11-13 FEBRUARY AND 24-26 SEPTEMBER 2019

Appearances

For the Claimants: Mr P Soszynski, lay representative
For the Respondent: Mr A Patel solicitor (in February)
Dr Sood, former owner (in September)

Interpreters: Polish: Mr T Gierasimuik
Lithuanian: Ms A Kedaviciute.

JUDGMENT

The unanimous Judgment of the Tribunal is that:

- (i) Ms Zembrzuska and Ms Grzywacz's claims of race discrimination are not well founded and are dismissed.
- (ii) Ms Zembrzuska and Mr Pasternakiewicz's claims of victimisation are not well founded and are dismissed.
- (iii) Mr Pasternakiewicz was not dismissed and his claim for notice pay fails.
- (iv) Mr Pasternakiewicz's claim for wages has now been paid.
- (v) Ms Grzywacz has the right to claim unfair dismissal.
- (vi) Ms Grzywacz was wrongfully and unfairly dismissed. The Respondent has failed to comply with the ACAS Code of Practice.

- (vii) Ms Grzywacz's claim for unpaid wages in respect of statutory sick pay has now been paid.
- (viii) Ms Grzywacz and Ms Zembrzuska's claims for pay in lieu of holiday accrued but not taken are well founded. Mr Pasternakiewicz's claim for holiday pay fails.
- (ix) Ms Grzywacz's claim of failure to provide written particulars of employment succeeds.
- (x) The Respondent is ordered to pay Ms Zembrzuska **£62** in respect of holiday pay, (10 days × £38.75 = £387.50 less £325.50 already paid).
- (xi) The Respondent is ordered to pay Ms Grzywacz **£4,256** calculated as set out below.

Unfair dismissal

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| <u>Basic award</u> | | <u>646</u> |
| <u>Compensatory award</u> | | |
| Loss to from dismissal to 31 st October 2018 (6 months SSP now paid) | 0 | |
| Loss 1 st - 30th November 2018 (4x 300) | 1200 | |
| Loss of statutory rights | <u>350</u> | 1550 |
| <u>Holiday pay</u> (£60x 16.3=978) Less £600 now paid | 378 | |
| <u>25% uplift for failure to comply with the ACAS code</u> (1928 x 25%) | | 482 |
| <u>Failure to provide particulars of employment</u> (4 x £300) | | <u>1200</u> |
| Total Award | | 4256 |

The Recoupment Regulations 1996 do not apply to this award.

Employment Judge Spencer
26th September 2019

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. All judgments, and written reasons for the judgments if requested, are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the parties.