



EMPLOYMENT TRIBUNALS

Claimant Mrs R Gage

Respondent: Gallaghers of Yorkshire Limited (in voluntary liquidation)

HELD AT: Sheffield

ON: 19 November 2019

BEFORE: Employment Judge Little

Members: Mrs S Robinson
Mr D Fields

REPRESENTATION:

Claimant: In person

Respondent: No attendance or appearance

JUDGMENT

The unanimous Judgment of the Tribunal is that:-

1. The claimant's dismissal on 18 October 2018 was unfavourable treatment of the claimant because she was exercising the right to maternity leave and so was a discriminatory dismissal contrary to Equality Act 2010, section 18.
2. The claimant is awarded the sum of £10,000 as compensation for injury to feelings.
3. Determination of remedy in respect of loss of earnings flowing from the discriminatory dismissal is stayed generally.
4. Liberty to apply.

REASONS

1. At a hearing on 12 September 2019 a differently constituted Tribunal found that the claimant's employment had transferred to Gallaghers of Yorkshire Limited under the Transfer of Undertakings (Protection of Employment) Regulations 2006. It also found that the claimant had been dismissed from that employment by that company on 18 October 2018.
2. Having given Judgment in respect of the claimant's money claims at that hearing, the complaint which the claimant brought in respect of her dismissal – that it was discriminatory was listed to be heard before a full Tribunal today.
3. In the absence of any evidence from the respondent (which the Tribunal now notes is in a voluntary creditor's liquidation) we are prepared to infer, as the claimant contends in paragraph 10 of her witness statement, that if she had not been on maternity leave and so "invisible" she would not have been dismissed. Alternatively we are prepared to infer that the fact of her being on maternity leave at the material time and then the possibility of her wishing to return on a part-time basis were also factors in her dismissal.
4. We have assessed the claimant's injury to feelings on the basis of the information which she has given in her witness statement at paragraphs 11 and 12 where, to summarise, she speaks of the significant emotional distress caused by her dismissal and associated matters which took her away from time which she would otherwise have been spending with her recently born child. That, as the claimant states, is something that she will never get back.
5. We find that the claimant suffered financial loss when, because of the dismissal, she was unable to return to employment with the respondent at the end of her maternity leave. We appreciate that even if the claimant had been allowed to return to work, it is likely that that employment would have ended on or about the date when the respondent ceased trading. The claimant had not come with a calculation of that loss today and in circumstances where it is likely to be difficult for the claimant to recover even what we have awarded to date, we saw no point in speculating as to the claimant's financial loss at present. However we have left that matter open and if the claimant does wish us to deal with this issue subsequently she is at liberty to apply to us in writing with the appropriate calculation.

Employment Judge Little

Date 26th November 2019