



EMPLOYMENT TRIBUNALS

Claimant: Mr P Allen

Respondents: 1. Paradigm Precision Burnley Limited
2. Carl Wheeler

Heard at: Manchester

**On: 9-13 March and
16,17 March 2020**

Before: Employment Judge Leach

Representation:

Claimant: Ms T Barsam (Counsel)

Respondents: Mr A Rozycki (Counsel)

JUDGMENT

Claims under the Equality Act 2010

1. The claimant succeeds in his claim against the first respondent that he was subject to harassment related to sexual orientation contrary to section 26 of the Equality Act 2010 on various dates between 12 March and 5 June 2018 in that:

- (i) He was told that he was “camp” on or about 12 March and various other dates between 12 March and 5 June 2020.
- (ii) He was subject to limp wristed hand gestures directed towards him on a number of occasions;
- (iii) He was sent an email depicting two stereotypical gay characters with comments directed at the claimant;
- (iv) A copy of a passport photograph of himself with “I love” handwritten underneath it, was left in the workplace for the claimant to see;
- (v) He was asked what his favourite “type” of man was at a work’s

event on or about 20 April 2018.

2. All other allegations of harassment made by the claimant are dismissed.
3. The claimant succeeds in his claims against the first respondent of direct sexual orientation discrimination under section 13 of the Equality Act 2010 to the extent set out below:
 - a. that the claimant was rejected by the first respondent as Operations Director and then as a candidate for the position of General Manager of the first respondent's Burnley site. The claimant was informed of this on 5 June 2018.
4. All other claims of direct discrimination are dismissed.
5. The claimant succeeds in his claims against the first respondent of victimisation under section 27 of the Equality Act 2010 to the extent set out below:-
 - a. he was isolated by the first respondent between late August 2018 and late October 2018 during a grievance process and the appointment of a temporary replacement.
6. All other claims of victimization are dismissed.
7. All claims against the second respondent made under the Equality Act 2010 were out of time and it was not just and equitable to extend time until the date that the claimant's claim was issued. All claims against the second respondent are therefore dismissed.

Adoption Leave Detriment - Paternity and Adoption Leave Regulations 2002 and/or s47C Employment Rights Act 1996.

8. The claimant succeeds in his claim against the first respondent that he was subjected to a detriment because he sought to take additional adoption leave and/or because the first respondent believed that the claimant was likely to take additional adoption leave in that he was rejected as Operations Director and then as a candidate for General Manager of the first respondent.
9. All other claims of detrimental treatment are dismissed.

Unfair Dismissal

10. The claimant succeeds in his claim of constructive unfair dismissal.

Remedy

11. The respondent is ordered to pay the amounts set out below.

A. Unfair Dismissal

Basic Award	£3,048.00
Compensatory Award (part one)	£18,478.00

This is a gross amount comprising compensation for the loss of basic salary during the period which represents the three month notice period and is post employment notice pay ("PENP"). This will be subject to deductions for tax by the first respondent and the net amount payable to the claimant

Compensatory Award (part 2)

Loss of pension during three months' notice period	£1,847.82
Loss of Statutory rights	£500

The recoupment regulations apply to this award. The prescribed period is between 16 November 2018 and 15 February 2019. The prescribed amount is £20,325.82. The total monetary award for unfair dismissal is **£23,873.82**. The amount by which the total monetary award exceeds the prescribed amount is £3548.

B. Claims under the Equality Act 2010 (EqA) and the Paternity and Adoption Leave Regulations 2002 (Regulations)

Injury to feelings award	£26,300.00
Compensation for financial loss 16 February 2019 to date of Tribunal (the date of 15 March 2020 was used)	£45,586.68
Future losses (limited to 12 months from date of hearing)	£18,126.72
Interest under the Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996	_____£6,632.00
Total under EqA and Regulations	£96,645.40

C. Payments relevant to (and additional to) awards under both A and B above

1. Failure to follow ACAS Code of Practice on Disciplinary and Grievance Procedures under section 207A of the Trade Union and Labour Relations (Consolidation) Act 1992 – The parties agreed an appropriate uplift was 15%	
15% of (96,645.40 + 23,873.82)	£18,077.92
Total (prior to grossing up for tax purposes)	<u>£138,597.34</u>
2. Additional amount to take account of tax payable on the awards in excess of £30,000 (less the PENP) (“Grossing Up Amount”)	
(being 40% of £138,597.34 – £30,000 – £18,478.20)	£36,047.66
Add the Grossing Up Amount to the total (138,597.34 plus £36,047.66)	
Total Amount Payable	<u>£174,645</u>

Employment Judge Leach

Date: 19 March 2020

JUDGMENT SENT TO THE PARTIES ON

20 March 2020

FOR THE TRIBUNAL OFFICE

Note

Written reasons will not be provided unless a written request is presented by either party within 14 days of the sending of this written record of the decision.

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

