



EMPLOYMENT TRIBUNALS

Claimant: Mrs P Sharpe

First Respondent: Michael Edmonson

Second Respondent: Back Page Shops Limited

JUDGMENT ON LIABILITY

Employment Tribunals Rules of Procedure 2013 – Rule 21

The judgment of the Tribunal is that:

1. The complaint in respect of direct disability discrimination is well-founded and succeeds against the first and second respondents.
2. The complaint of unlawful deduction of wages in respect of the period 05 September 2020 to 08 September 2020 is well-founded and succeeds against the second respondent.
3. The complaint for breach of contract (failure to give notice of 1 week's termination of employment) is well-founded and succeeds against the second respondent.
4. The Complaint in respect of accrued but untaken holiday pay under Regulation 30 Working Time Regulations is well-founded and succeeds against the second respondent.
5. The complaint of unfair dismissal against the respondents is dismissed upon withdrawal.

REASONS

6. The Claimant was employed by the Second Respondent from 27 November 2018 to 08 September 2020 as a shop assistant. She presented a Claim Form on 31 October 2020 against the First Respondent which was served on an address given as The Back Page, Metro Centre Upper Blue Mall, Gateshead. A response was due to be returned by 08 December 2020.

7. No response was returned by the required date. The file was reviewed by me. I noted that there may have been some confusion regarding the identity of the Claimant's employer. On 10 December 2020 the Tribunal wrote to the Claimant who subsequently confirmed on 11 December 2020 that her employer was Back Page Shops Ltd, that she was applying for it to be added as a respondent and for proceedings to be re-served on both Mr Edmonson and the company at the latter's registered office which was also Mr Edmonson's correspondence address. In the same email the Claimant confirmed that she was withdrawing her complaint of unfair dismissal.
8. The proceedings were re-served on both respondents. A new date of 11 January 2020 was given for submission of the Response. No response was returned by either respondent.
9. Therefore, in accordance with rule 21 of the Tribunal Rules of Procedure an Employment Judge must decide whether on the available material a determination can properly be made of the claim or part of it, and to the extent that a determination can be made, the Employment Judge must issue a judgment.
10. I am satisfied that there is sufficient information contained within the Claim Form to issue judgment against the Respondents. The Claimant was employed as a shop assistant. At the date of termination of employment she was aged 61. She was dismissed without warning or consultation and in circumstances whereby a younger shop assistant, who worked part time to supplement her status as a student was kept on. That other employee had less experience and shorter service than the Claimant. That was sufficient for me to conclude that the Claimant had established a prima facie case of direct discrimination because of age. Although I am not obliged to conclude automatically from those facts that the Claimant's dismissal was not materially influenced by her age, I do so conclude. In the absence of any explanation from the Respondent I accept the Claimant's contention that age was a motivating factor.
11. I was not in a position to deal with remedy in respect of the claim of age discrimination and it is preferable to deal with all aspects of remedy on the same occasion. Therefore, it was appropriate for a judgment to be issued in respect of liability only. A remedies hearing will be listed at which the respondents will not be permitted to participate without the permission of an employment judge.

Employment Judge Sweeney

15th January 2021