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EMPLOYMENT TRIBUNALS

Claimant: Miss M Elia

Respondent: Rockbridge Medical Ltd

Heard at: East London Hearing Centre (by Cloud Video Platform)

On: 5 and 6 November 2020

Before: Employment Judge Jones
Members: Mrs L Land
Dr L Rylah

Representation

Claimant: In person
Respondent: Mr Munroe (Peninsula)

AMENDED JUDGMENT

The judgment of the Tribunal is that: -

1. The complaint against Mark Lyons was withdrawn and dismissed upon withdrawal.
2. The complaint of direct age discrimination (section 13 Equality Act 2010) succeeds against Rockbridge Medical Ltd.
3. The complaint of dismissal in contravention of section 39(2)(c) Equality Act 2010 also succeeds.
4. The Respondent failed to give the Claimant a statement containing particulars of change of terms and conditions of employment, after the change on 1 October 2019.
5. The complaint of indirect age discrimination fails.

Remedy

6. The Claimant is entitled to the following remedy for her successful complaints. This is ordered under section 124 Equality Act 2010.

Injury to feelings £4,000

Loss of earnings

7. Loss of earnings at the rate of £18,000 per annum between 12 February 2020 – 19 October when the Claimant started new employment. There is no claim for loss of earnings after 19 October 2020.

22 weeks at £346.15 = £7,615.30

15 weeks (23 March – 3 July reduced rate because it is likely that that Claimant would have been furloughed during that time) $346.15 \times 80\% = £276.92$.

$15 \times £276.92 = £4,153.80$

Total loss of earnings = £11,769.10

Interest (Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996) at the rate of 8%

8. $£4,000 \times 8\% = £320$

9. $£11,769.10/2$ (interest on loss of wages is calculated from midpoint) = $£5,884.55 \times 8\% = £470.76$

Total interest = £790.76

Total award under Equality Act 2010 = £4,000 + £11,769.10 + £790.76 = £16,559.86

Failure to provide change of employment particulars

10. The Claimant is entitled to 2 weeks' pay because of the Respondent's contravention of section 4 Employment Rights Act 1996 and in accordance with Section 38(3) and (4) Employment Act 2002. $2 \times £346.15 = £692.30$.

11. The Claimant is entitled to a total remedy of $£16,559.86 + 692.30 = £17,252.16$.

Employment Protection (Recoupment of Benefits) Regulations 1996

12. Grand Total = £17,252.16

The prescribed element is £11,769.10

The period of the prescribed element was May 2020 to October 2020

The excess of the Grand Total over the Prescribed Element is $(£17,252.16 - £11,769.10) = £5,483.06$.

13. The Respondent is to pay the Claimant the sum of £5,483.06 forthwith and the balance of her remedy once notified by the Secretary of State that recoupment has taken place.

Employment Judge Jones

16 November 2020

Amended on 11 February 2021