



EMPLOYMENT TRIBUNALS

Claimant: Ms L Irvine

Respondent: (1) VRP and Sons Limited, (2) Mr Paras Vijay Patel

Heard at: Reading On:15 June 2020

Before: Employment Judge Gumbiti-Zimuto

Representation:

Claimant: Written Representations dated 1 June 2020

Respondent: No representation

JUDGMENT

- (1) The respondents are ordered to pay to the claimant the sum of £1,036.00 in compensation for unfair dismissal.
- (2) The respondents are ordered to pay to the claimant the sum of £24,914.00 in compensation for pregnancy or maternity discrimination.
- (3) The respondents are ordered to pay interest to the claimant in the sum of £1,951.45.

REASONS

1. In a judgment sent to the parties on the 4 September 2019 the Tribunal made an award of £3,288.60 in compensation to the claimant for unauthorised deductions from wages and the tribunal also awarded the claimant the sum of £587.35 in respect of notice pay. The award was made against the first respondent, VRP and Sons Limited.
2. The Tribunal also found that the claimant was unfairly dismissed and that the respondent had discriminated against the claimant on the grounds of

- pregnancy or maternity discrimination. A hearing was listed to take place on 4 November 2019 to decide on any remedy for unfair dismissal and pregnancy or maternity discrimination and to consider whether the claimant is entitled to a redundancy payment.
3. On the 4 November 2019 Mr Para Vijay Patel was added as second respondent to the proceedings. The claim was sent to the first respondent and to the second respondent at his place of business, and at Victoria House, 18 Dalston Gardens, Stanmore, Middlesex, England, HA7 1BU. On the basis of the information provided to me by the claimant I am satisfied that the second respondent is aware of the proceedings.
 4. The matter came before the Tribunal on the 18 May 2020 at a closed preliminary hearing conducted by telephone. The claimant attended and was assisted by Miss Mary Kelly. The respondent did not attend.
 5. For the reasons set out in the judgment dated the 18 May 2020 I was satisfied that the claimant is entitled to a judgment against the second respondent. I determined that the claimant was not entitled to a redundancy payment.
 6. I am satisfied that the case is suitable for a determination on the remaining issues between the parties, remedy for unfair dismissal and pregnancy or maternity discrimination, by consideration of the papers. I gave the parties notice of this and informed the parties that a remedy hearing at which the parties were in attendance would be listed if requested by either of the parties. No request for the hearing to take place with the parties present was made and I have therefore made this determination on the papers before me.
 7. The matters to be determined are: (1) whether the claimant is entitled to, and if so, the amount of a basic award and or compensatory award for unfair dismissal, (2) whether the claimant is entitled to, and if so, the amount of any compensation for pregnancy and maternity discrimination.
 8. Section 118 Employment Rights Act 1996 provides that where a tribunal makes an award of compensation for unfair dismissal the award shall consist of a basic award and a compensatory award. The basic award is calculated in accordance with section 119.
 9. The claimant was employed by the respondent from 8 December 2015 until 16 January 2019, three complete years. The claimant's date of birth is 22 October 1989. Applying the provisions of section 119 the claimant is entitled to a basic award of £ 600.¹

¹ 3 (years employment) x 1 (week's pay for each year of employment) x £200 (week's pay)

10. The claimant is also entitled to a compensatory award. The amount of the compensatory award shall be such amount as the tribunal considers just and equitable in all the circumstances having regard to the loss sustained by the claimant in consequence of the dismissal in so far as that loss is attributable to action taken by the employer.
11. The claimant has been and continues to be unemployed since her dismissal. The claimant has not been in receipt of income support or job seekers allowance. The award of compensation is not subject to the recoupment provisions. The claimant would have returned to work with the aspiration of working 25 hours a week, which would have resulted in pay of about £218 per week (based on the national minimum wage). The claimant's loss of earnings to the date of the hearing is in the region of about £15,914 to the date of the hearing².
12. I am satisfied that the claimant has attempted to mitigate her loss. The claimant is a parent of four young children, two of whom live with her and her partner and another two who she shares the care of with her ex-partner. The claimant does not drive and lives in a village with no regular public transport. The claimant is by her circumstances effectively excluded from many potential roles. The claimant's employment with the respondent was very enabled the claimant to work within the restrictions imposed by her childcare responsibilities.
13. The claimant is entitled to an award of compensation for the loss of her statutory rights. I consider that an award of compensation equivalent to two week's pay is just and equitable, in the sum of £436.
14. The amount of the compensatory award is limited by section 124 Employment Rights Act 1996. In the claimant's case therefore, the compensatory award for unfair dismissal is limited to £11,336.
15. The claimant claims an award for injury to feelings. She contends that the award of compensation for injury to feelings should be in the middle band of the Vento guidelines.
16. I am satisfied that the claimant has suffered significant injury to feelings. The claimant has lost her job because of discrimination. The impact of losing her job is likely to continue for an indefinable period. The claimant's circumstances are such that it is not easy for her to find alternative employment. The claimant felt that that the respondent has acted in "total disregard for the legal protection" she is afforded as a woman and that the respondent "believes he can just ignore the law".
17. I consider that an award of compensation for injury to feelings in the sum of £9000 is appropriate in this case.

² 71 weeks x £218

18. As the claimant remains unemployed, has attempted to mitigate her loss and has no immediate prospect of finding alternative employment. I consider that the claimant should recover an award of compensation for loss of earnings up to the date of assessment of this award. The award for loss of earnings should therefore be made in the sum of £15,914.

19. I make the following award of compensation to the claimant:

Unfair dismissal:

(a) Basic award: **£600**

(b) Compensatory award: **£436**

Discrimination Pregnancy or Maternity:

(c) Injury to feelings: **£9,000**

(d) Loss of earnings: **£15,914**

20. The claimant is also entitled to an award of interest on the award of compensation for discrimination.

21. The Claimant is entitled to an award of interest on the sum of £9,000 compensation made in respect of injury to feelings. The award of interest is made pursuant to the provisions of the Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996 (as amended by the Employment Tribunals (Interest on Awards in Discrimination Cases) (Amendment) Regulations 2013). The award of interest is made in respect of the period from the 19 January 2019 until the 15 June 2020. The rate of interest during the relevant period is 8%³. The interest awarded is therefore **£1,037.59**.⁴

22. The claimant is entitled to an award of interest on the sum of £15,914 compensation for loss of earnings. The award of interest is made pursuant to the provisions of the Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996 (as amended by the Employment Tribunals (Interest on Awards in Discrimination Cases) (Amendment) Regulations 2013). The award of interest is made in respect of the period from the mid-point between 19 January 2019 until the 15 June 2020. The rate of interest during the relevant period is 8%. The interest awarded is therefore **£913.86**.⁵

³ Regulation 3 (2) provides that "Subject to paragraph (3) , the rate of interest to be applied shall be, in England and Wales, the rate fixed, for the time being, by section 17 of the Judgments Act 1838 ...".

⁴ $(8\% \times £9000) \div 365 \times 526 \text{ days} = £1,037.59$ Interest awarded

⁵ $(8\% \times £15,914) \div 365 \times 262 \text{ days} = £913.86$ interest awarded

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23. The respondent is ordered to pay to the claimant the following sums (a) £1,036 for unfair dismissal, (2) £24,914 for pregnancy and maternity discrimination and (3) Interest of £1,951.45.

Employment Judge Gumbiti-Zimuto

Dated: ~~15 June 2020~~

Re-Dated: 14 May 2021

JUDGMENT SENT TO THE PARTIES ON
9 June 2021

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THY

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FOR THE SECRETARY OF EMPLOYMENT TRIBUNALS