



EMPLOYMENT TRIBUNALS

Claimant

Miss S Murrer

v

Respondent

Mr Mauro Greco t/a Blossom Cafe

Heard at: Cambridge (by CVP)

On: 14 July 2021

Before: Employment Judge Bloom

Appearances

For the Claimant: Mr C Atkinson (Solicitor)

For the Respondent: Mr W Lane (Solicitor)

JUDGMENT

1. The claimant is awarded the following sums of compensation payable by the respondent:-

Injury to feelings	£10,000.00
Interest	£1,427.88
Loss of Statutory Rights	£500.00
Loss of Income	£1,924.00
Total award payable by the respondent to the claimant	<u>£13,851.88</u>

REASONS

1. The claimant in this Remedy Hearing was represented by her solicitor Mr Atkinson. The respondent was represented by Mr Lane.
2. Mr Lane had not hitherto been on the Tribunal record as acting for the respondent. In fact the respondent never presented a Response to this claim. As a consequence Judgment in Default was awarded against the

respondent on 5 February 2021 by Employment Judge Palmer. No application until the date of this hearing was made by the respondent to reconsider that Judgment and no application was ever made by him or anyone on his behalf to present a Response out of time.

3. At the commencement of this hearing Mr Lane made an application that the name of the respondent should be amended to Blossom Café Limited. He submitted that the respondent was not the claimant's employer when her employment was terminated on 16 May 2019. It was in fact a limited company, Blossom Café Limited. He accepted there had been a difficulty in obtaining clear instructions from the respondent throughout the time when his firm was instructed in April 2021. Any application for reconsideration of Employment Judge Palmer's Judgment should have been made within 14 days. Almost 5 months has elapsed since that Judgment was made and has only been made at the commencement of this hearing. Mr Lane had to concede that no prior notice of such an application was made either to the Employment Tribunal or to the claimant's representative. Taking into account the fact that the claim was served on the respondent on or around 3 December 2019 and the fact that he had until 6 January 2020 to submit a Response and the fact that no application was made after the Default Judgment was made, in my Judgment it is not in the interests of justice to grant the application. The respondent has had ample opportunity to take an active part in these proceedings but has hitherto failed to do so. The application therefore to either reconsider the Default Judgment and/or to amend the name of the respondent is refused.
4. I then went on to determine the issue of compensation. Employment Judge Palmer gave Judgment in the claimant's favour both in respect of her claim of automatic unfair dismissal by reason of pregnancy/maternity and also gave Judgment in respect of her claim of unlawful discrimination based on the protected characteristic of pregnancy/maternity.
5. In determining the issue of appropriate compensation I heard evidence from the claimant.
6. Prior to the termination of her employment on 16 May 2019 the claimant worked 17 hours per week. These hours fitted in school times which were applicable for her because at that time she had two children aged 11 years and 10 years. The claimant is a single parent. The claimant went on maternity leave on 26 October 2018 and her daughter was born on 26 January 2019. Unfortunately her child had health difficulties. She was born with a hole in the heart and had other health problems such as jaundice. The claimant had to deal with all of those matters herself. I accept that such events were extremely stressful in an already stressful situation for the claimant. She began to suffer from migraines a condition which she had not encountered beforehand. Although she has not been in receipt of prescribed medication she takes herbal remedies and has sought the help of her GP. Matters were made worse when her employment was terminated by the respondent on 26 May 2019. Mr Lane

on behalf of the respondent frankly admitted that the reason the claimant's employment was terminated was because she was on maternity leave. No other employee at the café was dismissed.

7. The claimant has made 8 or 9 applications for alternative employment since the termination of her employment. She is understandably looking for jobs which fit in around her childcare arrangements. She has made 8 or 9 applications for other employment in almost a two year period since August 2019. Although I take into account the obvious difficulties in securing alternative employment during the pandemic and the lockdown commencing in March 2020, it does appear to me that the claimant could have made more attempts to obtain alternative employment albeit limited to the sort of hours she was working for the respondent. On her own admission she accepted she was not presently engaged with any agencies. There were possible alternatives of working in the care sector in the hours convenient to the claimant. For that reason in my Judgment the claimant's loss of income applicable from the date she would have returned to work on 7 August 2019 should extend for a period of one year only until August 2020.
8. Taking into account the claimant's income at the time her employment was terminated compared with her income now which has been adjusted by various working tax credit payments and additional child benefit it was agreed between the parties that the claimant's income is now £37 per week less than it would have been had her employment not been terminated.
9. As a result the loss of income compensation applicable for 1 year from 7 August 2019 is in the sum of £1,924 (52 weeks x 37 per week).
10. The claimant is entitled to an award representing loss of statutory rights and I determine that the appropriate sum is one of £500.
11. The claimant is entitled to an award for injury to feelings. I have accepted that the termination of the claimant's employment was one that would have caused her considerable anxiety and stress. She was having to cope the pressures of being a single parent with already two children which was exasperated by the unfortunate health problems arising from the birth of her third child. I accept that the level of anxiety and stress caused by the respondent which arose from the termination of her employment considerably added to her levels of anxiety and stress and caused her health to deteriorate to the extent that she began to suffer from frequent migraine attacks. This was not therefore to that extent a one-off act of discrimination but had ongoing consequences as far as the claimant was concerned. In my Judgment the injury to feelings award falls within the Middle Band of the Vento Guidelines applicable at the time of between £8,800 and £26,300. In my Judgment the appropriate award for injury to feelings is one of £10,000 i.e. in the lower sector of the Middle Band.

12. The claimant is entitled to interest applicable from the act of discrimination i.e. the date her employment was terminated on 16 May 2019 up to the date of this award 14 July 2021. That is a period of 652 days at 8% which results in a daily rate of interest of £2.19 making a total sum of £1,427.88 for interest on the injury to feelings award.
13. All of these sums total £13,851.88 which is the sum awarded in favour of the claimant to be payable to her by the respondent.

Employment Judge Bloom

Date: 19 July 2021

Sent to the parties on: .18/8/21....

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For the Tribunal Office