



# EMPLOYMENT TRIBUNALS

## Claimant

## Respondent

Miss B Lally

v

New Chapter Villages

**Heard at:** Cambridge

**On:** 22 November 2021

**Before:** Employment Judge Ord

## Appearances

**For the Claimant:** In person

**For the Respondent:** Ms H Pryce, Solicitor

## JUDGMENT on PRELIMINARY ISSUES

The Claimant's complaint that she was the victim of direct sex discrimination has no reasonable prospect of success and is struck out.

## REASONS

1. The Claimant presented her claim form to the Tribunal on 11 September 2020, complaining that the Respondent had withdrawn an offer of employment as an act of direct sex discrimination. I note that the Claimant's complaint, as it was argued before me today, was that the reason for withdrawal was because of her status as a single parent.
2. The facts as I have found them are as follows.
3. The Claimant was previously employed by, and at the relevant time had already decided to leave employment with, Northamptonshire County Council. At that time she began negotiations with the Respondent about a possible role within the company which was at that stage a start-up business without income, but with an apparently ambitious business plan.
4. After discussion and negotiations, the Respondent made two offers to the Claimant as options for employment. These two offers were put forward on 30 April 2020. The first was to engage her at a salary of £60,000 per annum; the second was to engage her at an initial salary of £40,000 rising

to £55,000 once the first development for the business received planning permission, and to give the Claimant an additional 2% shareholding in the business for an investment of £20,000.

5. The Respondent hoped that the Claimant would start work immediately.
6. On the same day, the Claimant said she was,  
  
*“not in a position to proceed with either of the options provided”.*
7. She said that the figures were below what had previously been discussed, although she has not told me what those figures were and asked for a further discussion.
8. At law, that was a rejection of the offers with an invitation to discuss matters further. However, at that stage, each of the two offers made had been rejected.
9. The Respondent replied on the same day expressing that it was a shame that the Claimant had declined the offers, but that that position was respected and she was wished well. The Respondent agreed to have a further discussion with the Claimant.
10. That discussion took place on 1 May 2020 and the Claimant says that it was at this stage that the Respondent was made aware that she was a single parent.
11. On 4 May 2020, the Claimant asked the Respondent whether it had had an opportunity to re-evaluate the offer previously made. That was an invitation to make a fresh offer.
12. On 4 May 2020, the Respondent replied saying that they hoped the Claimant would join them, but totally understood if it did not work for her.
13. On 6 May 2020, the Claimant responded again expressing disappointment that the Respondent was not able to adjust the salary for the second option, i.e. the option with shares, and that *“in order to accept any role”* she required to have confidence that she would have a voice in the organisation and would be respected as a leader.
14. There matters stood for three days and on 9 May 2020, the Respondent decided that they were no longer going to pursue the possibility of employing the Claimant and indeed had decided not to employ anyone, as had been their earlier intention, as they set out in their email of 29 April 2020 to the Claimant. The existing directors would carry out the work themselves.
15. The Claimant says that by those actions the Respondent was guilty of discrimination on the ground of sex. She says that the Respondent had withdrawn an offer of employment.

16. However, at the time the discussions ended, there was no outstanding offer to withdraw. The offers of 30 April 2020 were rejected on the same day. Subsequent discussions centred around the Claimant's desire for a better offer but none was forthcoming.
17. Ultimately the Respondent withdrew from negotiations.
18. The complaint is not that the withdrawal from negotiations was an act of discrimination, the complaint is that there was a withdrawal of an offer. At the time of the acts complained of, there was no offer to withdraw.
19. The Claimant's case at its highest is that on 4 May 2020, the Respondent was restating the original offer. However, that was rejected on 6 May 2020 by the Claimant repeating certain requirements before she could accept "any role".
20. Accordingly, at the time of the matters complained of, the Respondent had not made an offer to the Claimant that was available for acceptance and at no time, as the Claimant has already admitted, was there any firm agreement to commence employment with the Respondent on clear and agreed terms.
21. Accordingly, the Claimant's complaint that an offer was withdrawn because of her sex, has no reasonable prospect of success because no offer ever was withdrawn.
22. The claim is dismissed; it has no reasonable prospect of success.

8 December 2021

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Employment Judge Ord

Sent to the parties on: 23/12/2021

23/12/2021

For the Tribunal Office