



EMPLOYMENT TRIBUNALS

Claimant: Miss S Sasheva

Respondents: (1) All Techmart UK Limited
(2) Mr A Uddin

Heard at: East London Hearing Centre (by telephone)

On: 17 January 2022

Before: Employment Judge Moor

Representation:

For the Claimant: Mr Abel, Solicitor

For the Respondent: Mr Watson, Counsel

JUDGMENT

The Respondents must pay to the Claimant (joint and several liability) **£17,607.67**.

The claim for holiday pay is dismissed upon withdrawal.

A calculation of the remedy is set out in Annex A.

This is not an unfair dismissal claim and therefore recoupment does not apply.

REASONS

1. On 13 December 2021 I made Rule 21 Judgment, a Notice of Appearance not having been entered. The Claimant was harassed because of her sex and/or sexually harassed by the Respondents. There was insufficient information for an assessment of remedy and this hearing was listed.

2. On 11 January 2022 solicitors for the Respondents indicated they would be making applications for time to be extended to present the Notice of Appearance and to reconsider the Judgement. Mr Watson attended today and made applications for this hearing to be postponed pending the Respondents' applications. They could not be made today because the medical evidence they relied upon was not yet available.
3. For reasons given orally at the hearing I did not allow the application to postpone. I listed a hearing for a Preliminary Hearing in public in front of me on 12 July 2022 at 10.00 for 3 hours to hear the Respondents' applications. I have made separate Case Management Orders in order that the relevant information is prepared in good time.
4. The Claimant withdrew her holiday pay claim.

Findings of Fact

5. The Claimant worked as an administrator at the First Respondent starting on 12 October 2020. She was the sole employee.
6. Mr A Uddin, the Second Respondent, was her manager and director of the First Respondent and the only other person working in its office.
7. The Claimant was not provided with any written particulars of employment or a written contract of employment.
8. Mr Uddin stared at her while they worked in the same office, so much so it made her feel uncomfortable.
9. In a text message sent to the Claimant by Mr Uddin on 3 November 2021, he stated '*I wanna hump you.*' And '*Love ... when are we going to fuck*'. She says, and I accept, that she could not have felt more uncomfortable. She was also scared. As a result she began to work at home more.
10. Mr Uddin sent the Claimant other text messages telling her he missed her which made her feel uncomfortable.
11. Mr Uddin sent another text, asking if she was alone, on 7 March 2021. The Claimant then saw him hanging around her flat. This alarmed her and she started fearing for her safety.
12. Later in March 2021, Mr Uddin sent the Claimant another obvious sexual proposition by asking her if she wanted to spend the night with him. The Claimant told him this was unacceptable harassment and told him to stop. Despite this he tried calling her numerous times until she blocked his number.
13. She decided to resign after the second proposition, because of the harassment she experienced. She was, from her texts, plainly upset and angry.
14. The Claimant felt so harassed that she reported the incident to the Police.
15. I have no doubt that at first the harassment made the Claimant initially feel extremely uncomfortable, and nervous. She was too ashamed to seek support from members of her family initially. Most of them lived in Bulgaria and she did not wish to worry them unduly. I have no doubt that by the time she resigned she was scared,

extremely upset and angry. She had been forced to leave her job because of unlawful sexual harassment in the form of propositions from her boss and only other member of staff.

16. The Claimant decided to move home because Mr Uddin had her address and she had seen him hanging around her flat. She did not feel safe coming and going. I entirely accept that this decision was caused by the unlawful harassment and was a further aggravating impact upon her. It is practically burdensome to have to move home, to pack, to find somewhere new, to change addresses and so on, but to do so because of harassment is even more upsetting.
17. The Claimant's aunt provided her with some support at the time. She saw the Claimant change to being irritable and distracted before she could open up about what had happened.
18. The Claimant found a new job, 3 weeks after her resignation. She went onto another job in October 2021.
19. I accept the Claimant now feels nervous around male colleagues because of the harassment she experienced at the hands of the Respondents. She has also experienced a real loss of confidence. She is more easily distracted. This had an impact on her ability to work effectively and at her best. I expect this to ease as she now works in a safe work environment. She also still feels shame about what had happened.
20. The Claimant has regularly had moments when she freezes because of anxiety. She calls these panic attacks and they have happened about 3 times a week since her resignation. They are attributable, in my view, to the harassment. She does not want to talk to anyone at work about why they are happening. She has not sought medical help for them but has used the internet to try to find ways of coping. The Claimant has had nightmares but these have eased. I expect that if she sought professional help about her anxiety, there is a good prospect that it and these attacks will lessen as time goes on.
21. The Claimant does not experience problems around family or friends.

Decision on Injury to Feelings

Principles:

22. While the Vento bands give guidance on a starting point for the assessment of injury to feelings by reference to the acts found to be discrimination, it is important to remember that I must compensate for injured feelings. I do not punish the Respondents for the treatment. Equally the seriousness of the acts is likely to affect the degree of impact upon the victim.
23. I have had regard to the Judicial College Guidelines on personal injury, especially psychiatric injury (in order to ensure the award I make is commensurate with such awards, not because I am compensating for such injury) and the comparable cases in Harvey. Of course, no two claims are the same and I am not bound by those cases.

24. I take into account the value of money and the principle that awards should not be so high or so low as to reduce public respect for and confidence in the Equality Act.
25. The factors pointing to significant injured feelings are as follows:
26. The behaviour was nasty sexual harassment by Mr Uddin in the form of sexual propositions and standing outside the Claimant's home. It was an abuse of his power as her employer. In addition the Claimant was made to feel uncomfortable by Mr Uddin staring at her and sending to her inappropriate texts about missing her. Despite the Claimant's very clear and firm text in which she told the Second Respondent to stop, he continued to try to call her.
27. The Claimant's response to the harassment can be measured by the fact she reported the conduct to the police, left work and moved home.
28. The impact on the Claimant was increased because she was a lone worker. This exacerbated her discomfort and feelings that she was unsafe. She did not want to be near Mr Uddin.
29. She resigned because of the sexual harassment. Similarly she had to move house. Both these events increased the injury to her feelings: it was significant to have to change two main parts of her life: her job and her home. They also both led to a great deal of practical inconvenience in having to find other work and another home.
30. The Claimant's injured feelings included shame: a really unpleasant and undermining feeling.
31. The Claimant describes real anxiety and a real loss of confidence that have affected her working life and ability to work effectively. She is understandably nervous working with men. She has regular moments where she freezes. These events are destabilising and really unpleasant, especially as she does not wish to talk about the reason for them. This impact is ongoing but there is a fairly good chance that they will not be long lived if the Claimant seeks professional help. The Claimant has had nightmares but these have eased.
32. The factors pointing to a lower award for injured feelings are as follows:
33. The harassment, while serious, did not include touching and was relatively short-lived taking place in relation to 3 main incidents (two propositions and attendance at her home). (The Claimant had started working more at home to avoid Mr Uddin.)
34. The Claimant has not sought medical help, which may have relieved some of her symptoms of anxiety– but has instead used internet research to try to cope.
35. There has been no impact on her relationships with friends. There was initial shame in first informing family, but no ongoing impact in her relationship with her family.
36. The Claimant has been able to start new work.
37. While the Claimant lost her job this was a new job and the impact on her feelings did not include any significant loss of amenity in that short-lived job, which was quickly replaced.

38. Overall in my judgment the Claimant experienced 3 main incidents of sexual harassment, which was a nasty and serious abuse of power by her boss. Even though relatively short-lived, it has had a real impact upon her working confidence especially around male colleagues. She experiences real anxiety, manifested in regular moments when she freezes. The harassment scared her because she was a lone worker with only him in the office and again when he turned up outside her home. She experienced distress, fear and anxiety, so much so that she reported the matter to the police. Her injured feelings were doubtless increased by having to leave her job and by having to move home.
39. This is not a higher Vento band case because the harassment did not last long; and did not include the worst kinds of physical harassment and there has been and will likely be some future improvement in ongoing impact. But it is not in the lower Vento band because it was not a one-off incident, the injured feelings are real and extend beyond upset and into anxiety and are long lasting and because the harassment resulted in the loss of a job and the need to move home.
40. Starting in the middle band of Vento and taking into account all of the factors I set out above, I assess the Claimant's loss of earnings for the harassment and constructive dismissal in total at £15,000.
41. The Claimant gross and net week's pay was £215. She lost three weeks' net pay amounting to £645.
42. I have considered whether to make an award under Section 38 Employment Act 2002 because the Claimant did not receive a section 1 statement of particulars of employment. As I have made an award in the claim, then the minimum award must be 2 weeks. I exercise the discretion given to me by this section to increase this award to 4 weeks' pay. It would be just and equitable (fair) to do so because the Claimant was a lone worker and had no one to turn to within the Respondent to ask about her basic rights save Mr Uddin, who was harassing her.
43. I do not make any basic award: this is not an unfair dismissal claim.
44. I do not make any uplift because the ACAS Code on Discipline does not apply because this is not a disciplinary case.
45. I award interest on financial loss at 8% from the midpoint of the date of discrimination (which I take to be the effective date of termination) and the calculation date (25 January 2022).
46. I award interest on injured feelings at 8% for the whole period.
47. I refer to the calculation below for the relevant figures.

Appendix 1

Calculation

A. Financial Loss	£
Loss earnings	
3 x 215	645
Section 38 award	
4 x 215	860
Total financial loss	1505
B. Interest on financial loss	
From midpoint 10 March 2021 to 25 January 2022	
= 321 days/2 = 161 days	
8% x 161/365 = 3.5% x 1505 =	52.67
C. Injury to Feelings	15000.00
D. Interest on injury to feelings	
At 8% for whole period	
8 x 321/365 = 7%	
7% x 15000	1050.00
Total award A + B + C + D	£17,607.67

Employment Judge Moor
Dated: 26 January 2022