



**EMPLOYMENT TRIBUNALS (SCOTLAND)**

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Case No: S/4102659/2018

Held in Glasgow on 3 May 2018

Employment Judge: Mary Kearns

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Miss M Degnan

Claimant  
Represented by:  
Mr D Murray  
Consultant

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20 Elizabeth Girvan  
t/a Merkland Private Nursery

Respondent  
Not present &  
not represented

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**JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

30 The Judgment of the Employment Tribunal is that the claim succeeds. The respondent is ordered to pay to the claimant the sum of **Nineteen Thousand, Six Hundred and Forty Eight Pounds (£19,648)**.

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**REASONS**

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1. The claimant was employed by the respondent as a nursery nurse from 30 January 2017 until her summary dismissal on 26 November 2017. Having complied with the early conciliation requirements she presented an application to ETZ4(WR)

the Employment Tribunal on 14 February 2018 in which she claimed maternity discrimination and notice pay.

5 2. A copy of the claim form setting out the claimant's complaints was sent to the respondent on 21 February 2018. In accordance with the terms of Rule 16 of the Rules in Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 ("the Tribunal Rules") the respondent was required to enter a response within 28 days of the date on which a copy of the claim form was sent to her but failed to do so.

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3. Rule 21 of the Tribunal Rules provides that where, on the expiry of the time limit no response has been presented, an Employment Judge shall decide whether on the available material a determination can properly be made of the claim. Otherwise, a hearing shall be fixed. In this case a hearing was fixed. At the hearing the claimant gave evidence, which I accepted. I found as fact that the claimant advised the respondent at lunchtime on Friday 24 November 2017 that she was pregnant. Shortly thereafter the respondent told the claimant to go home. She then wrote her a letter dated 24 November 2017 claiming she had had "complaints from parents about your conduct" and stating that she was terminating the claimant's employment with effect from that date. She hand delivered the letter to the claimant's home on 26 November 2017. No complaints had ever been notified to the claimant prior to that date. I found that the claimant's dismissal on 26 November 2017 was unfavourable treatment because of her pregnancy and that it took place within the protected period contrary to section 18 Equality Act 2010. It therefore amounted to pregnancy discrimination.

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4. The following further facts are found:

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5. The claimant's expected week of confinement begins on 2 July 2018. The claimant's weekly pay at the date of her dismissal was £230. Had she not been dismissed, she would have continued working until mid-June 2018, and would thereafter have been entitled to Statutory Maternity Pay. Her wages from 27 November 2017 to 11 June 2018 (28 weeks) would have been 28 x £230 =

£6,440. Her SMP would have been 90% of her weekly pay for the first 6 weeks of maternity leave (6 x £207 = £1,242), then £145.18 for the next 33 weeks. 33 x £145.18 = £4,790.94. Her financial loss arising from the discrimination therefore amounts to £12, 472.94.

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6. The claimant also lost her tenancy as a result of her sudden dismissal and had to seek assistance from a housing association. She managed to find alternative accommodation in one of their properties but her replacement accommodation is unfurnished which has meant borrowing £2,175 which she must repay to relatives.

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7. The claimant was very shocked and upset at her sudden dismissal. A report from her GP states that her abrupt dismissal has led to increased anxiety which has had a significant impact on her normal functioning. She has developed a fear of her former employer coming to her door and has become hyper-vigilant. She is aware of sudden increase in anxiety when someone knocks on the door or phones and is struggling to get out of the house on her own. She has developed physical symptoms of anxiety with hyperventilation which makes her feel breathless and light headed with pins and needles. Taking account of the claimant's own evidence supported by the report from her doctor I have concluded that compensation for injury to feelings should be assessed toward the higher end of the lower Vento band as submitted by Mr Murray. I have therefore assessed compensation for injury to feelings at £5,000.

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8. The total compensation payable to the claimant is calculated as follows:

5	Financial loss:	£12,472.94
	Borrowings from relatives for unfurnished let:	£2,175.00
	Injury to feelings:	<u>£5,000.00</u>
	Total compensation (rounded to nearest £):	<b>£19,648.00</b>

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**Employment Judge: M Kearns**  
**Date of Judgment: 04 May 2018**  
**Entered in register: 09 May 2018**  
15 **and copied to parties**