



EMPLOYMENT TRIBUNALS

Claimant: Mr L Bucsa
Respondent: Rygor Group Limited and others
Heard at: Reading **On: 15 July 2022**
Before: Employment Judge Gumbiti-Zimuto
Tribunal Members: Ms A Brown and Mr F Wright

Appearances

For the Claimant: In Person
For the Respondent: Mr J Tunley, counsel
Interpreter: Ms M Gaga (Language Romanian)

JUDGMENT

The first respondent must pay the claimant the sum of £11, 252.16 for unfair dismissal. The respondents must pay to the claimant the sum of £20,000 for injury to feelings (Equality Act 2010). The award breaks down as follows.

- a. Basic award £1575 (unfair dismissal)
- b. Loss of earnings £2568.06 (unfair dismissal)
- c. Loss Pension £6,600 (unfair dismissal)
- d. Loss Statutory Rights £500 (unfair dismissal)
- e. Prescription charge £9.10 (unfair dismissal)
- f. Injury to Feelings (Equality Act 2010)

REASONS

1. The awards set out above at a - e have been agreed by the parties. These reasons set out below concern the contested award for injury to feelings.
2. The claimant was employed by the first respondent from March 2017 as a mechanic technician with a basic salary of £36,338.64. With overtime the claimant earned an additional £1,250 a month and was enrolled into the occupational pension scheme. The first respondent employer paid into the occupational pension scheme.
3. The claimant states that when he commenced working for the first

- respondent, he had no history of mental illness and did not suffer from stress, anxiety or depression. The Tribunal accept that the claimant has been affected by work related stress, and anxiety.
4. The claimant has not produced evidence from a medical practitioner other than Med4 Fit Notes from July and August 2019. "The claimant has carried out a NHS self assessment quiz NHS quiz and scored 21 out of 21 for anxiety and 2 out of 2 for depression and that means I am highly likely to be suffering from a depressive disorder and an anxiety disorder."
 5. The claimant states that the effect of the discrimination he suffered was to leave him feeling ashamed and it affected his relationship with his partner. The claimant states that his sleep was affected and he could never rest properly for tossing and turning, and waking with nightmares.
 6. The claimant went to his GP in July 2019 and was signed off sick with stress and then work-related-stress. The claimant was off work for 4 weeks. The claimant returned to work after this period of absence.
 7. The claimant has in our view made some assertions that have not been supported by evidence beyond the claimant's assertion. The claimant states: "I would describe myself as happy and easy going."
 8. The claimant also states: "My entire working life at the first respondent was living nightmare. From time to time, I didn't even get called by my own name. We came to the conclusion that the claimant was overstating the position. This is shown by the fact that the claimant complained about being called Luke by his work colleagues instead of his real name Lucian. Yet the claimant's email address, which the claimant created refers to "LukeBucsa".
 9. The Tribunal found that the claimant was subjected to abuse at times and that he was referred to in a racially offensive way at times. The claimant does not fully set out the findings of the Tribunal in his remedy statement. The claimant complains that this abuse was constant and happened every day throughout his employment. This is not what the Tribunal found and we refer to our liability decision for the findings that we made.
 10. We also consider that the claimant overstates the position when he states "I was shocked, confused and full of fear it became a never ending cycle of abuse. From time to time, I felt anger, frustration, irritation and anxiety." The claimant continued in his employment with the respondent until he had found another role and he only sought another role after he found that he was not getting the overtime he was hoping for. While we are satisfied that the claimant was constructively and unfairly dismissed, we note that the claimant over states the position in the respect stated.
 11. The Tribunal accepts that the claimant suffered injury as result of the discrimination suffered. We note that the claimant states: "I felt overwhelmed by all of the racism I was experiencing. I felt hopeless, so much that I lost 10kg of weight. I became really ill. I went to work as I needed the money, but I was afraid of how I might be treated all the time at work." As previously stated, the claimant has not provided medical evidence to support his assertions, while we accept that the discrimination is likely to have had some impact on his physical health.
 12. The claimant complains that despite reporting matters, the assault, and the

- racism to HR nothing was done about it until much later. We note that the claimant did not continue with his grievance and stated that he did not trust HR during the liability hearing. The characterisation of HR as ignoring the claimant is not correct.
13. The claimant states: "I was so deeply affected by what had happened to me that I was frightened all of the time." The Tribunal accept that the claimant would have been affected by the incident on the 5 April as described in the Liability judgment however we do not consider that it can be said fairly that to describe the claimant as "frightened all the time" is once more over stating matters. We note that until the claimant's last days the claimant was available to work overtime for the first respondent.
 14. The claimant instructed lawyers to assist him and incurred legal fees in doing so. The claimant suffered additional stress caused by financial worries. The claimant states that because of a lack of overtime he sought and found another job.
 15. The claimant states that he "thinks about the case all of the time, all of the racism I experienced, all of the treatment I received, the harassment, the victimisation everything it is all too much, even with the kindest of help I am feeling stressed. I think about how I was called fucking this, fucking that, all of the things said to me and the assault."
 16. The Tribunal found that there was an abusive culture and, but the Tribunal did not find that the claimant was abused all of the time. The claimant states that he smokes and has increased from 12 cigarettes a day 60 cigarettes a day. This is unsupported by evidence beyond the claimant's assertion.
 17. Finally the claimant states that "the sooner my case is over I can go on with my life but it will take a long time after 5 years of the case and all of the treatment. All of the racism and all of it has completely taken over my life."
 18. We have come to the conclusion that this case is one which falls in the middle band of the Vento Guidelines, not at the bottom not at the top. There are Features in this case that cause it to be a serious case. Those include the nature of the incident on the 5 April and the impact that it had on the claimant.
 19. We notice that in his most recent statement the claimant expands on his what he says about injury to feelings in his liability statement. There are features of the original statement that do not appear in the most recent statement and there are things in the most recent statement that it is not possible to infer into the original statement.
 20. We accept that the claimant was upset by the incidents that they cause him to be off work with stress and caused him anxiety that spilled out into his life in general. We note from the first statement that the claimant refers to being prescribed anti-depressants, in the most recent statement he does not make reference to that continuing, in his live evidence today we do not understand the claimant to say that he was currently on anti-depressants.
 21. We note that the claimant complains of not being able to sleep and complains of not feeling safe at work. We take that comment not at its most literal but recognize that the claimant's feelings about going to work would have been adversely affected. We note that the claimant did attend work after 5 April and after being off sick still sought overtime before searching for and starting

- a new job.
22. Taking all matters into account and also bearing in mind the period of time events took place is about 6 months we think that a middle band Vento award is compensation for the injury to feeling suffered by the claimant.
23. Although the claimant refers to a number of things that might be aggravating features, we do not consider that this is a case where an award for aggravated damages is appropriate. We don't consider that the claimant was constantly subjected to racially discriminatory comments or that his employer was completely oblivious to his complaints of discrimination. There was nothing in the way that case was defended by the respondent that justifies an additional award for aggravated damages.
24. We make an award of £20,000 in respect of injury to feelings. Parties have agreed the award for unfair fair dismissal in the sum of £11,252.16.

Employment Judge Gumbiti-Zimuto

Date: 18 July 2022

Sent to the parties on: 6 August 2022

T Cadman
For the Tribunals Office

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