



EMPLOYMENT TRIBUNALS

Claimant: Ms P Kaur

First Respondent: Fenwick Healthcare Staffing Limited
Second Respondent: Fenwick Healthcare Limited (Removed from Proceedings)
Third Respondent: Mr C De Niro
Fourth Respondent: Mr S Zerara

Heard at: London Central Employment Tribunal via Cloud video Platform

On: 17 November 2022

Before: Employment Judge Murphy

Representation

Claimant: Mr A Donnelly, Solicitor

Respondents: Not in attendance and not represented.

JUDGMENT

1. The respondents did not enter an ET3 response or responses to the claims. A hearing took place on 17 November 2022 at which evidence was heard from the claimant.
2. The claimant's claim against the First Respondent of automatic unfair dismissal pursuant to section 99(3)(a) of the Employment Rights Act 1996 ("ERA") is well founded and succeeds.
3. The claimant's claim against the First Respondent pursuant to sections 68A, 68D and 70 of ERA is dismissed.
4. The claimant's claim of direct discrimination because of pregnancy contrary to section 13 of the Equality Act 2010 ("EA") was withdrawn at the hearing

and is dismissed pursuant to Rule 52 of the Employment Tribunal Rules 2013.

5. The claimant's claim of unfavourable treatment because of pregnancy contrary to section 18 of EA against the First Respondent alone, namely failing to respond to the claimant's email of 8 February 2022 and failing to conduct a pregnancy risk assessment resulting in the withdrawal of shifts and failure to offer further shifts while the employment continued is well founded and succeeds. The First Respondent is ordered to pay the Claimant an award for injury to feelings in the sum of ONE THOUSAND POUNDS STERLING (£1,000) and an award of compensation for the claimant's financial losses in the sum of NINE HUNDRED POUNDS STERLING (£900).

6. The claimant's claim of unfavourable treatment because of pregnancy contrary to section 18 of EA against the First Respondent and Third Respondents is well founded and succeeds in respect of the following conduct:
 - a. not responding to messages and calls from the claimant on 8 and 10 February 2022,
 - b. the Third Respondent displaying hostility to the claimant during a phone call on 14 February 2022 and blaming the conduct of the Respondents on the claimant's pregnancy and putting the phone down when the claimant alleged pregnancy discrimination;
 - c. not responding to the claimant's email of 18 February 2022

The First Respondent and the Third Respondent are ordered, jointly and severally, to pay the claimant an award for injury to feelings in the sum of FOUR THOUSAND POUNDS STERLING (£4,000) in respect of these contraventions and the contraventions in paragraph 9 below.

7. The claimant's claim of unfavourable treatment because of pregnancy contrary to section 18 of EA against the First Respondent and Fourth Respondents, is well founded and succeeds in respect of the following acts:
 - a. On 14 February the Fourth Respondent telling the claimant it was up to the Third Respondent to decide whether to "take the claimant back";
 - b. On 14 February, the Fourth Respondent telling the Claimant to forget about discrimination after she told him she was being discriminated against and had contacted ACAS and the Fourth Respondent telling her "not to put anything in writing" and that he would give her some shifts on condition she did not raise a grievance;"
 - c. On 18 February 2022, the Fourth Respondent dismissing the Claimant.

The First Respondent and the Fourth Respondent are ordered, jointly and severally, to pay the claimant an award for injury to feelings in the sum of TWELVE THOUSAND ONE HUNDRED POUNDS STERLING (£12,100) and an award of compensation for the claimant's financial losses in the sum of SEVEN THOUSAND THREE HUNDRED AND NINETY EIGHT POUNDS STERLING (£7,398) in respect of these contraventions and the contraventions in paragraph 10 below.

8. The claimant's claim of harassment related to sex against the First Respondent and the Third Respondent contrary to section 26 of EA in respect of the Third Respondent's conduct during a phone call on 14 February 2022 is well founded and succeeds. The First Respondent and the Third Respondent are ordered, jointly and severally, to pay the claimant an award for injury to feelings in the sum of ONE THOUSAND FIVE HUNDRED POUNDS STERLING (£1,500).
9. The claimant's claim of victimisation against the First and Third Respondent contrary to section of 27 of EA is well founded and succeeds in respect of the following acts:
 - a. The Third Respondent displaying hostility to the claimant on 14 February 2022 and blaming the Respondents' conduct on the claimant's pregnancy;
 - b. The Third Respondent on 14 February 2022 telling the claimant he had no more work for her and putting the phone down when she asserted pregnancy discrimination;
 - c. Not responding to the Claimant's email of 18 Feb 2022 to the Third Respondent.
10. The claimant's claim of victimisation against the First and Fourth Respondent contrary to section of 27 of EA is well founded and succeeds in respect of the following acts:
 - a. On 14 February the Fourth Respondent telling the claimant it was up to the Third Respondent to decide whether to "take the claimant back";
 - b. On 14 February, the Fourth Respondent telling the Claimant to forget about discrimination after she told him she was being discriminated against and had contacted ACAS and the Fourth Respondent telling her "not to put anything in writing" and that he would give her some shifts on condition she did not raise a grievance;"
 - c. On 18 February 2022, the Fourth Respondent dismissing the Claimant.

Summary of Awards

11. In summary:

Case No: 2201326/2022

- a. the First Respondent has been ordered to pay the claimant ONE THOUSAND NINE HUNDRED POUNDS STERLING (£1,900) for which the other respondents have no joint and several liability.
- b. The First and Third Respondents have been ordered, jointly and severally, to pay the claimant FIVE THOUSAND FIVE HUNDRED POUNDS STERLING (£5,500). The Fourth Respondent has no liability for this award.
- c. The First and Fourth Respondents have been ordered, jointly and severally, to pay the claimant NINETEEN THOUSAND FOUR HUNDRED AND NINETY EIGHT POUNDS STERLING (£19,498). The Third Respondent has no liability for this award.
- d. The grand total of the awards which have been ordered variously against the respondents is TWENTY SIX THOUSAND EIGHT HUNDRED AND NINETY EIGHT POUNDS SETERLING (£26,898).

I confirm that this is my Judgment in the case of Case No: 2201326 Kaur v Fenwick Healthcare Staffing Limited and Others and that I have signed the Judgment by electronic signature.

L Murphy

**Employment Judge Murphy
(Scotland), acting as an Employment
Judge (England and Wales)**

Date 18 November 2022

JUDGMENT SENT TO THE PARTIES ON

18/11/2022

FOR THE TRIBUNAL OFFICE

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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