



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

AND

Respondent

Miss P Omisore

Royal Free London NHS Foundation Trust

Heard at: London Central

On: 13 October 2022

Before: Employment Judge H Stout
Tribunal Member T Ashby
Tribunal Member I Allwright

Representations

For the claimant: Amanda Hart (counsel)

For the respondent: Hollie Patterson (counsel)

REMEDY JUDGMENT

Reissued 25 November 2022, under Rule 69

The judgment of the Tribunal is that:

- (1) The Claimant is entitled to a basic award for unfair dismissal under ss 118-119 of the Employment Rights Act 1996 of **£1,337.92** (4 weeks' pay at £334.48 gross per week);
- (2) The Claimant has not failed to take reasonable steps to mitigate her loss; if she continues to take reasonable steps to mitigate her loss, she will have done so by 1 April 2023;
- (3) There should be a 5% *Polkey* reduction to reflect the chance that the Claimant's employment would have terminated in any event absent the unlawful conduct;
- (4) It is just and equitable to award an uplift of 25% under s 207A(2) of the Trade Union and Labour Relations (Consolidation) Act 1992 for failure to comply with the ACAS Code of Practice on Disciplinary and Grievance procedures ("the ACAS uplift");
- (5) The Claimant is entitled to compensation under s 124 of the Equality Act 2010 of **£51,059.87**, calculated as follows:-

- a. Past loss of earnings from 1 March 2021 to the date of the hearing (13 October 2022): £11,564.21, reduced by 5% for *Polkey* and increased by 25% ACAS uplift, giving a total of **£13,732.50**;
 - b. Interest on past loss of earnings under the *Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996*: **£890.92** (calculated at the judgment rate of 8% from the mid-point date of 21 December 2021, being 296 days at a daily rate of £3.01);
 - c. Future loss of earnings from 14 October 2022 to 31 March 2023: £5,797.18, reduced by 5% for *Polkey* and increased by 25% ACAS uplift, giving a total of **£6,884.15**;
 - d. Loss of statutory rights: £500, reduced by 5% for *Polkey* and increased by 25% ACAS uplift, giving a total of **£593.75**;
 - e. Injury to feelings: £18,250, increased by 25% ACAS uplift, giving a total of **£22,812.50**;
 - f. Interest on the injury to feelings at the judgment rate of 8% from the date of contravention (1 October 2020) to hearing date (13 October 2022), being 743 days at a daily rate of £5.00, giving a total of **£3,715**;
 - g. The total compensatory award is therefore £48,628.82, and the basic award is £1,337.92, i.e. a total of £49,966.74. Allowing for £30,000 tax free, and £10,242.52 unused personal allowance, the Claimant will be liable to tax at 20% on £9,724.22, so the total award must be grossed up by $(£9,724.22 / 0.8) - £9,724.22 =$ **£2,431.05**.
- (6) As the Claimant has been fully compensated for her losses under s 124 of the Equality Act 2010, no compensatory award is payable under s 123 of the Employment Rights Act 1996.

Employment Judge Stout

13 October 2022

Reissued 25 November 2022 to correct (by consent) the calculation of the grossing up for tax at paragraph (5)g and the consequential increase in total compensatory award at paragraph (5).

JUDGMENT SENT TO THE PARTIES ON

25/11/2022

FOR THE TRIBUNAL OFFICE

Reasons were given orally at the hearing and written reasons will not be supplied unless requested within 14 days of the date this judgment is sent to the parties in accordance with Rule 62.