



EMPLOYMENT TRIBUNALS

Claimant: Ms D Patel

Respondent: Simon Cooper and Co Ltd (R1)
Mr M Morjaria (R2)

Heard at: Watford Employment Tribunal

On: 28 November to 1 December 2022

Before: Employment Judge Quill; Ms C Buckland; Mr N Boustred

Appearances

For the Claimant: Mr E Webb, counsel
For both respondents: Ms M Backhouse, solicitor

LIABILITY JUDGMENT

1. The Claimant's email of 4 January 2021 at 4.37pm was a protected disclosure.
2. The Claimant was subjected to detriments on the ground that she had made the protected disclosure, being, from the list of issues, items 3b, 3c, 3d.
3. The complaint in relation to detriment 3a fails and is dismissed.
4. There was an actual dismissal by the employer (R1) on 5 January 2021, at some time earlier than 13:53.
5. The principal reason for that dismissal was the protected disclosure and therefore the Claimant's complaint that she was unfairly dismissed within the definition in section 103A of the Employment Rights Act 1996 ("ERA") is well-founded and succeeds.
6. The Claimant was entitled to 1 weeks' notice, and the employer (R1) breached her contract by dismissing her without notice.
7. The complaint of harassment related to sex succeeds.
8. There will be an award of 2 weeks' pay in accordance with section 38 of Employment Act 2002.

9. The issue of whether there was a requirement to comply with the ACAS code for disciplinaries, given our findings about the dismissal reason, will be addressed during the remedy phase, as will the issue of whether there should be an uplift for any reason because of section 207A of the Trade Union and Labour Relations (Consolidation) Act 1992 (“TULRA”)
10. There are no grounds to reduce the award in accordance with 207A(3) of TULRA.

REMEDY JUDGMENT

11. The Claimant’s email of 4.37pm on 5 January 2021 and was a grievance and R1 unreasonably failed to comply with the ACAS Code in relation to that grievance. There will be a 10% uplift in relation to the awards against the employer for unfair dismissal, breach of contract, protected disclosure detriment and harassment related to sex.
12. The employer, R1, is ordered to pay the Claimant the sum of £13426.26. The breakdown of that sum is as follows:

12.1.	The basic award for unfair dismissal is zero.	
12.2.	The compensatory award for unfair dismissal is	£3053.05
12.3.	The aggregate sum for injury to feelings is	£8000.00
12.4.	The sum for breach of contract is	£ 174.46
12.5.	The 10% uplift on aggregate of those sums:	£1122.75
12.6.	Two weeks pay as per s38 Employment Act 2002:	£1076.00
13. Mr Morjaria, R2, is jointly and severally liable for the above-mentioned sum of £8000 in respect of injury to feelings.

Employment Judge Quill

Date: 2 December 2022

JUDGMENT SENT TO THE PARTIES ON

3/1/2023

N Gotecha

FOR THE TRIBUNAL OFFICE

Notes

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

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

