



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Ms Laura Daniela Vaduva v Aroma Pizza Ltd (in voluntary liquidation)

Heard at: Watford Employment Tribunal

On: 11 January 2023

Before: Employment Judge Alliott (sitting alone)

Appearances:

For the Claimant: In person (via an interpreter: Romanian)

For the Respondents: Did not attend

JUDGMENT

The judgment of the tribunal is that:

1. The claimant's claims of automatically unfair dismissal (pregnancy) and pregnancy and maternity discrimination are well founded and the respondent is ordered to pay her compensation in the total sum of £10,957.01 (which includes gross sums subject to tax and National Insurance).

REASONS

1. The claimant was employed by the respondent on 1 July 2020 as a Waitress. She was dismissed with immediate effect on 3 January 2021.
2. The claimant's claims for notice pay and accrued holiday pay have been dismissed upon withdrawal.
3. The claimant was paid one months' notice pay to 31 January 2021.
4. The claimant informed the respondent that she was pregnant in early December 2020. Thereafter the claimant was required to train a new waitress and her hours were reduced.
5. On 3 January 2021 she was sent an email terminating her employment purportedly due to reduced hours being worked. However, the new waitress continued to work full time.
6. I find that there is a prima facie case of discrimination made out against the respondent and the respondent is required to provide an explanation. The response has been struck out and consequently I find that the claimant was dismissed because she was pregnant and her claims are made out.

7. The respondent is not here to argue any issues relating to Polkey and/or contribution.
8. The claimant was not dealt with for disciplinary reasons and so I make no award in relation to the Acas Code of Practice.
9. The claimant has been ordered to prepare a schedule of loss and a witness statement on two occasions and she has not done so. She told me she had sought assistance and the promised help did not materialise. In the circumstances I heard evidence from the claimant and did the best I could.
10. The claimant's contracted hours were 40 hours per week at £9.50 per hours giving a total gross wage of £380 per week.
11. The claimant was paid with notice pay to 31 January 2021.
12. The due date for the claimant's baby was 29 April 2021. In actual fact the child was born on 22 April 2021.
13. The claimant agreed that it would be reasonable to take the beginning of April as when she probably would have gone on maternity leave. She qualified for statutory maternity pay.
14. Consequently, her loss of earnings and statutory maternity pay are as follows:
 - 14.1 2 months (February and March 2021) at £380 per week: $8 \times £380 = £3,040$.
15. Statutory maternity pay:
 - 15.1 6 weeks at 90% of £380: $£342 \times 6 = £2,052$.
 - 15.2 33 weeks at £151.97 = £5,015.01TOTAL = £10,107.01 Gross (subject to tax and National Insurance).
16. The claimant told me she was in receipt of Universal Credit prior to dismissal but that it rose by £450 per month due to her dismissal. The recoupment provisions do not apply to Equality Act claims and, consequently, I find she should give credit for state benefits received as a result of dismissal.
 - 16.1 11 months at £450 = £4,950.
17. Consequently, the claimant's loss of earnings and statutory maternity pay is as follows:
 - 17.1 $£10,107.01 - £4,950 = £5,157.01$ gross (subject to tax and National Insurance).
18. The claimant did not return to work at the conclusion of the statutory maternity pay period. This would have been at Christmas 2021. The claimant told me she did not return to work due to childcare commitments and to care for her disabled husband. I find that she would not have

returned to her waitress work with the respondent in any event. Consequently, her loss of earnings claim ceases at the end of the statutory maternity pay period.

Injury to feelings

19. A claim for injury to feelings is not automatic and the onus is on the claimant to establish the nature and extent of any injury to feelings.
20. The claimant has failed to serve any witness evidence dealing with this issue.
21. Nevertheless, the claimant told me that as a result of the dismissal she had to use food banks and became more reliant on Universal Credit. The discrimination was of short duration but involved her losing her job.
22. I have taken into account the general principle set out in the case of Prison Service and others v Johnson [1997] ICR 275 EAT.
23. In my judgment, an appropriate figure for injury to feelings is £5,000.

Interest

24. 3 January 2021 to 11 January 2023, 2 years at 8% = 16%
25. £5,000 x 16% = £800.
26. The total award is therefore made up as follows:
 - 26.1 Compensation for loss of earnings and statutory maternity pay: £5,157.01 gross (subject to tax and National Insurance)
 - 26.2 Injury to feelings: £5,800.
 - 26.3 Grand total: £10,957.01

Employment Judge Alliot

Date:2/3/2023

Sent to the parties on: 10/3/2023.

NG

For the Tribunal Office