



EMPLOYMENT TRIBUNALS

Claimant: Miss L. O'Shea
Respondent: LJE Management Limited
Heard at: Midlands West (by Cloud Video Platform)
On: 20 March 2023
Before: Employment Judge Power (sitting alone)

Representation

Claimant: In person
Respondent: Did not attend

JUDGMENT

The judgment of the tribunal is that:

1. The Claimant's claims of direct race discrimination, harassment on the grounds of race and unfair dismissal are well founded and succeed. The Respondent is ordered to pay the sum of **£13,617.36** to the Claimant, comprised as follows:
 - a. £300 as a basic award (2 x 1 x gross weekly pay of £150);
 - b. £300 in respect of loss of statutory rights;
 - c. £13,017.36 as compensation for unlawful discrimination, inclusive of interest, and with an uplift of 25% applied for unreasonable failure to comply with the relevant ACAS Code of Practice under s 207A of the Trade Union and Labour Relations (Consolidation Act) 1992, made up of the following:
 - i. Loss of earnings from date of dismissal to 1 September 2021 (10 weeks less notice period = 8 weeks x £150 x 25%) = £1,500
 - ii. Interest calculated from the mid-point of the dismissal date to 20 March 2023, being 322 days ($£1500 \times 322/365 \times 8\% = £105.86$)
 - iii. Injury to feelings ($£8,000 \times 25\% = £10,000$)
 - iv. Interest calculated from the date of dismissal to 20 March 2023, being 644 days ($£10,000 \times 644/365 \times 8\% = £1,411.50$)

- d. Recoupment of benefits does not apply as the Claimant did not claim or receive any benefits beyond those she had already been receiving during employment.
2. The Claimant's claim for breach of contract in respect of notice pay is well founded and succeeds. She had been employed for over two years and had an entitlement to two weeks' notice. The Respondent is ordered to pay the Claimant **£300** (£150 x 2 = £300) as damages for breach of contract after accounting to HMRC for tax and national insurance contributions on it.
3. The Respondent failed to provide the Claimant with a written statement of employment particulars, contrary to s1 of the Employment Rights Act. It is just and equitable to award the sum of 2 weeks' pay pursuant to s38 of the Employment Act 2002 in respect of this failure. The Respondent is therefore ordered to pay the Claimant the sum of **£300** (2 x gross weekly pay of £150).
4. The Tribunal recommends that, within one month of the date on which this judgment is sent to the parties that the director of the Respondent consults the Equality and Human Rights Commission to identify how they might secure training regarding racial harassment in the workplace and how to eliminate it.

Employment Judge Power
20 March 2023

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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