



EMPLOYMENT TRIBUNALS

Claimant

Mr P Withers

v

Respondent

Halfords Autocentres Ltd

Heard at: Bury St Edmunds (via CVP) **On:** 27 June 2023

Before: Employment Judge Conley
Ms S Blunden
Mr G Page

Appearances

For the Claimant: Ms J May, solicitor

For the Respondent: Ms A Akers, counsel

JUDGMENT

1. The claimant suffered an injury to feelings as a result of discrimination and the respondent is ordered to pay him compensation in the sum of £24,199.45

2. The Tribunal makes a recommendation as follows:

‘The respondent, in the light of the findings made in this matter, should review its Equality, Diversity and Inclusion training programme and ensure that staff at all levels, including management, receive periodic retraining.’

REASONS

1. At the liability hearing which took place from the 2 - 5 May 2023, the Tribunal upheld the claim in relation to discrimination arising from a disability and failure to make reasonable adjustments.

2. In advance of this hearing we considered the claimant’s schedule of loss which identified claims in respect of loss of earnings (mitigated by income from new employment), loss of statutory employment rights, and injury to feelings.

3. As we have already indicated to the representatives during the course of this remedy hearing, we have decided not to make any award in respect of the first two of these claims. This is because we concluded in the liability hearing that the claimant’s resignation was not caused as a result of acts of discrimination, and as a result we rejected the claim of constructive unfair dismissal.

4. The Schedule of Loss indicates that the injury to feelings in this case can be quantified at £25,000. This would place this case very close to the top of the middle Vento band category, the applicable boundary being £27,400 given that this was a claim submitted after 6 April 2021 but before 6 April 2022.

5. The respondent submits that this case should properly fall either in the lower Vento band or at least towards the lower end of the middle band which for these purposes begins at £9,100.

6. The Tribunal, without hesitation, can state that this is not a lower band case. These were acts of discrimination that persisted over a period of roughly 18 months, and so could not possibly be regarded as isolated incidents. As was made clear in the reasons given for the Tribunal's decision, these were discriminatory acts which persisted despite the fact that the claimant was given repeated reassurance that the matters complained of would be rectified, and the respondent's failure to do so had a clear impact upon the claimant.

7. In determining the level of injury to feelings we note that the claimant was resilient and had to 'get by' the best he could despite the failure by the respondent to put in place measures to assist him. He must not be disadvantaged in terms of compensation by the fact that he did his best in the circumstances in which he found himself.

8. We have identified the following features of the case that indicate the extent to which the claimant suffered injury to feelings;

- the fact that he was made to feel insecure and anxious about the amount of sick leave he was taking which was directly connected with his disability;
- the fact that he was forced to put in place his own working methods and strategies in order to satisfactorily do his job when the risk assessments were not followed;
- the fact that he was placed under pressure to work at the same rate and in the same conditions as his colleagues who did not share his disability;
- the fact that management was complacent in its approach to his need for reasonable adjustments;
- the fact that, over the course of time, he was compelled to seek advice from ACAS, make complaints via the HR department, and raise a grievance concerning his treatment;
- the fact that management were giving precedence to the views of other technicians at the same level as the claimant over the need to treat him fairly;
- the fact that it was only at the point of his partially successful appeal against the dismissal of his grievance that the respondent finally properly acknowledged his complaints.

9. Whilst we make it clear that we do not award compensation for loss of earnings for the reasons previously given, it would be artificial for us to ignore the

background circumstances against which the claimant initially made the decision to seek out other employment.

10. In the circumstances we have concluded that this is a case in which the appropriate level of compensation lies slightly above the median level within the middle band. We therefore award compensation in the sum of £20,000. Allowing interest at a rate of 8% pa for the intervening period of 958 days the total sum is £24,199.45.

11. We have been asked by Ms May on behalf of the claimant to make a recommendation in relation to the respondent's EDI training. This application has been opposed by Ms Akers who informs us that the respondent has an EDI training programme and that 'all new employees are required to take it'.

12. In our view the need for training at the respondent is considerable and if anything there is a greater need for training at management levels than for new starters. We were concerned about the complacency that appeared to exist among management in relation to the issues at the heart of this case, and the fact that many of the attitudes that led to the discriminatory acts here sadly appeared to us to still persist at the time of the hearing. We therefore have decided to make a recommendation in relation to future training.

Employment Judge Conley

Date: 23 August 2023.....

Sent to the parties on: ..25 August 2023.
S Bloodworth

.....
For the Tribunal Office