



EMPLOYMENT TRIBUNALS

Claimant: Mrs C Holloway
Respondent: The Durdans Stables Ltd

Before: **EMPLOYMENT JUDGE CORRIGAN**
Ms J Forecast
Mr S Goodden

UPON a reconsideration of the judgment dated 25 November 2022 on the Tribunal's own initiative, and without a hearing, under rule 73 of the Employment Tribunals Rules of Procedure 2013, that judgment is varied as set out below.

JUDGMENT

1. The tribunal also awards interest on the injury to feelings award of £1,628.05 which the respondent is ordered to pay to the claimant.

REASONS

For the variation of the judgment dated 25 November 2022

2. The tribunal is obliged to consider whether or not to award interest on a discrimination award, whether or not a party applies for it. The tribunal omitted to do so, as the claimant had not applied for it, but this was the tribunal's error. The Claimant is a litigant in person and the Tribunal should have raised it even though she had not applied for it. The Employment Judge raised the omission with the parties when the reasons were sent to the parties, by letter dated 10 May 2023 and proposed a reconsideration of the judgment solely to deal with the question of interest on the papers. The parties' views were invited.
3. The Claimant replied in writing on 21 May 2023 and the respondent on 24 May 2023. That correspondence has been taken into account in reaching this decision. Neither party raised any objection to the proposal to deal with it on the papers.
4. The full tribunal has therefore conducted a reconsideration on the papers which concluded today (11 January 2024). The delay in reaching this decision is due to a lengthy unplanned absence of the Employment Judge from 5 September

2023 until 8 January 2024 (which followed immediately after a planned absence over the summer).

5. The tribunal is obliged to consider awarding interest on discrimination awards, but has a discretion whether or not to do so (regulation 2(1) Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996. The rate is fixed at 8%. We agree that interest should be awarded, having taken into account the respondent's objections. We did not consider the reasons given by the respondent were sufficient to depart from an award of interest.
6. The regulations provide for how interest should be calculated on an injury to feelings award, unless this would cause serious injustice. This includes that the period of interest should begin on the date of the act of discrimination. Where discrimination extends over a period the tribunal has some discretion on deciding when it started.
7. In our original decision we identified a period of time over which the discrimination occurred which included failing to consult with the claimant about other staff changes on unspecified dates (about which the claimant was not aware at the time). The earliest identified date in the decision to make the injury to feelings award was March 2021. The respondent proposes that the period for interest begin with the correspondence dated 17 March 2021 and we agree with this, as being when the issues with the claimant's days of work upon her return were first raised. We did not find the discrimination began with the purchase of the business by Mr Cooper and we did not uphold the specific allegations of discrimination that were alleged to have occurred before March 2021.
8. Under the calculation method in the regulations the date the period should end is the date the award was calculated. This is the date of the judgment (25 November 2022) and not the date this was sent to the parties (22 December 2022). The arguments provided by the respondent do not provide a basis for choosing different dates.
9. The calculation period is therefore 17 March 2021-25 November 2022. This is a period of 619 days.
10. Interest is therefore calculated as follows: $619 \times 0.08 \times \frac{1}{365} \times \text{£}12,000$. This gives interest of $\text{£}1,628.05$.

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Employment Judge Corrigan

Date: 11 January 2024