



EMPLOYMENT TRIBUNALS

Claimant: Mr Omari Adjei Dawkins
Respondent: Halfords Limited
Heard at: Reading **On: 11 and 12 March 2024**
Before: Employment Judge Gumbiti-Zimuto
Members: Ms Victoria Pratley and Ms Helen Edwards

Appearances

For the Claimant: In person
For the Respondent: Mr A MacMillan, counsel

RESERVED JUDGMENT

1. The respondent is ordered to pay to the claimant the sum of **£53,444.64**.
2. The above award is comprising of (a) £25,000 in respect of unfair dismissal, and (b) £28,444.64 for harassment related to race (inclusive of interest in the sum of £8,444.64).

REASONS

1. Prior to this remedy hearing the claimant made an application for a postponement of the remedy hearing. The application was considered by the Judge and refused. At that the start of the remedy hearing proceedings the claimant was asked if he was still making an application for a postponement and he indicated that he was doing so. The primary basis of his application for a postponement was because the claimant wanted to obtain further evidence namely medical evidence from a psychiatrist, or perhaps a psychologist, which would support his case.
2. Having considered the application the Tribunal refused the application for a postponement. The reason the application is refused was because this is a remedy hearing for this case that is now a very old case and had been listed since 20 May 2022 (some 662 days ago); the claimant has been aware that the remedy hearing was going to take place since shortly after 28 December 2023 when the parties were sent the Tribunal's decision on liability. The

parties have therefore had plenty of time to obtain any evidence that was required for this remedy hearing. Additionally, the claimant's application for a postponement was made in a vague manner. It was not clear what evidence, from whom, or what issue on remedy it was specifically to address.

3. Section 123 Employment Rights Act 1996 provides that the compensatory award shall be such amount as the Tribunal considers just and equitable in all the circumstances having regard to the loss sustained by the complainant in consequence of the dismissal insofar as that loss is attributable to action taken by the employer. Compensation for unfair dismissal should be awarded to compensate but not to award a bonus. The object of the compensatory award is to compensate the employee for their financial losses as if they had not been unfairly dismissed.
4. The Tribunal heard evidence from the claimant who produced a statement on remedy. The parties also provided us with a remedy bundle of documents to which the claimant added some further documents. We made the following findings of fact for the purposes of the remedy.
5. The claimant has not been employment since his dismissal. The claimant has been unfit to work as a result of mental health issues. The claimant was sent home from work on 9 February 2021 in circumstances which the claimant believed were a dismissal for gross misconduct. This was not an unreasonable view for the claimant to have as it was not made clear the basis on which the claimant was being sent home on the day.
6. We consider that it was reasonable that the claimant believed he was being dismissed for gross misconduct. The claimant points out that the respondent in its initial grounds of response to the claim put forward the proposition that the claimant was dismissed for gross misconduct by the respondent. The Tribunal found that the claimant was in fact dismissed on the grounds of redundancy.
7. The claimant was clearly upset by what happened on the day he was sent home. The claimant's colleague was of the view that the claimant "was not in a fit state to be left alone", he was described as "completely destroyed and broken". The claimant was accompanied home by a work colleague who described the claimant as "in floods of tears and inconsolable", "totally hysterical, breathing erratically and having panic attacks". At the claimant's home the colleague was so concerned for the claimant's wellbeing that she waited with the claimant until the claimant's brother came home.
8. The claimant's dismissal what's with effect from 12 February 2024. The Tribunal is satisfied that the claimant's illness coincided with the dismissal and was as a result of the events surrounding his dismissal including the way that he was sent home on the 9 February 2021.

9. We also take into account that the claimant was someone who had for some time considered himself to be the victim of discrimination on the grounds of his race, the claimant considered that the dismissal was due to his race, the claimant had in fact been subjected to harassment because of his race which affected him in such a way that he suffered injury to feelings. We bear in mind that the claimant's complaints about direct discrimination have not been proven.
10. The conclusion of the Tribunal having considered the claimant's evidence at the liability and the remedy hearing is that the claimant's illness from the 12 February 2021 onwards was at least in part as a result of his dismissal. We have come to this conclusion on the basis that the claimant was fit to work and at work until the 9 February 2021 thereafter he became ill and was not able to work. The claimant's demeanour after he was sent home on the 9 February 2021 supports the conclusion that the claimant's sense of injustice at this action contributed to his depressive illness. In our view the claimant's illness from 12 February 2021 onwards was in consequence of the dismissal.
11. The claimant has not worked since.
12. The claimant has received a redundancy payment and therefore is not entitled to a basic award.
13. In calculating the claimant's compensatory award for unfair dismissal we have looked at the claimant's losses from the date of the claimant's dismissal until the date of the remedy hearing. The claimant's losses to this date are £65,449.60.
14. Tribunal would also consider that the claimant is entitled to recover the sum of £500 in respect of loss of statutory rights.
15. The Tribunal has not considered the claimant's loss of earnings beyond the date of the remedy hearing. The grossed up sum would be £74,937. The statutory cap for awards unfair dismissal contained in section 124 Employment Rights 1996 applies. The effect of the cap is that the claimant's compensatory award is £25,000.
16. For the harassment related to race the Tribunal makes an award of £20,000 to the claimant. The Tribunal considers that the proven harassment is a serious matter. No employee should have to endure the type of behaviour the claimant suffered at the hands of RC over a period of time. The impact of this behaviour, some of which the claimant complained about to his employer, is difficult to isolate in circumstances where the claimant's sense of hurt feelings includes matters which have not been proven discrimination. In assessing the damage that the claimant has suffered we consider him as he appears to us

and recognise that the impact was in part due to other matters not specifically forming part of the harassment proven. We recognise that the claimant's complaint to the Tribunal was much broader than the matters about which we found in the claimant's favour. Our conclusions were that the relevant unlawful behaviour was much narrower than the claimant's claim.

17. We have also not been able to conclude that the claimant has shown that he suffered specific personal injury by reason of the discriminatory behaviour that merits a separate award. We are however satisfied that the claimant's current malaise is in part attributable to the behaviour in respect of which we have found that the respondent is liable. The absence of medical evidence means that it is not possible for us to attribute specific mental health injury beyond injury to feelings. We consider that there is evidence that the claimant has suffered injury to his feeling in a significant way because of the discriminatory treatment which extends over a lengthy period of time. It lasted over an extended period of time and having heard how the claimant has described his condition and reaction to events occurring during his employment we are satisfied it was a significant cause though it would clearly not have been the only cause.
18. Taking all these factors into account we consider that the claimant should recover an award of compensation in the middle Vento Band and that it should be a sum of £20,000.
19. The Tribunal considered an award of interest, and we make an award of interest at 8% pursuant to Regulation 3 of the Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996. The calculation period is by regulation 6 for the period beginning on the date of the contravention or act of discrimination. In this case the claimant in his evidence stated that the offending behaviour of RC began in late 2018. We have therefore calculated the claimant's award of interest from 1 December 2018 to the date of the remedy hearing. We calculate that interest in this case in the sum of £8,444.64.¹

Employment Judge Gumbiti-Zimuto

Date: 9 April 2024

Sent to the parties on:

1 May 2024

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For the Tribunals Office

¹ £20,000 x 8% = £1,600,

£1,600 ÷ 365 (days) = £4.38 (per day)

£4.38 x 1928 (days from 1 December 2018 to 12 March 2024) = £8,444.64

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