



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr J Coston

**Respondent:** Reds Restaurants Ltd

**Heard at:** Leeds

**On:** 8 and 9 July 2024

**Before:** Employment Judge Deeley

## REPRESENTATION:

**Claimant:** represented himself (with assistance from his father)

**Respondent:** did not attend

# JUDGMENT

The judgment of the Tribunal is as follows:

## *Disability discrimination*

1. In relation to the claimant's complaints of **harassment** related to disability under s26 of the Equality Act 2010:
  - 1.1. six of the claimant's complaints of harassment succeed and are upheld. These are the complaints set out at paragraphs 6.1.1-6.1.3 and 6.1.5-6.1.7 of the list of issues provided by Employment Judge Miller at the case management hearing on 17 October 2023 (the "**List of Issues**");
  - 1.2. one of the claimant's complaints of harassment fails and is dismissed. This is the complaint set out at paragraph 6.1.4 of the List of Issues.
2. In relation to the claimant's complaints of **discrimination arising from disability** under s15 of the Equality Act 2010, the claimant's two complaints succeed and are upheld. This includes the claimant's complaint that his dismissal amounted to discrimination arising from disability.

3. In relation to the claimant's complaints of **direct disability discrimination** under s13 of the Equality Act 2010:
  - 3.1.two of the claimant's complaints of direct discrimination under (set out at paragraphs 3.1.1 and 3.1.2 of the List of Issues) are the same as two of the harassment complaints (set out at paragraphs 6.1.1 and 6.1.2 of the List of Issues) that the Tribunal upheld. If a complaint has been found to be harassment, it cannot also be found to be direct discrimination;
  - 3.2.the claimant's remaining three complaints of direct discrimination (set out at paragraphs 3.1.3-3.15 of the List of Issues) fail and are dismissed.
4. The claimant's complaint of failure to make reasonable adjustments under s20 and s21 of the Equality Act 2010 fails and is dismissed.

*Breach of contract (expenses)*

5. The claimant's complaint of breach of contract (failure to pay expenses) is upheld in part in relation to:
  - 5.1.the claimant's mobile phone expenses; and
  - 5.2.the balance of the claimant's mileage.
6. No judgment has been issued in relation to the claimant's complaint of breach of contract (failure to pay expenses) relating to the expense equivalent to the purchase value of the claimant's company laptop (£570). That complaint is subject to further case management orders which are contained in a separate document.
7. All other complaints relating to the claimant's expenses are dismissed on withdrawal by the claimant.

*Breach of contract (notice pay)*

8. The claimant's complaint of breach of contract (failure to pay one month's notice pay that he states was agreed verbally with his line manager) fails and is dismissed.

*Holiday pay*

9. The claimant's complaint of failure to pay accrued holiday pay is dismissed on withdrawal by the claimant.

*Remedy*

10. The claimant is awarded £104,366.98 in respect of his successful complaints of disability discrimination. A breakdown of the calculation of that award is set out in the notes below.

11. The claimant is awarded £417.20 in respect of his successful breach of contract (expenses) complaints. A breakdown of the calculation of that award is set out in the notes below.

## NOTES

12. The claimant's award for the disability discrimination complaints that were upheld was calculated as set out below.

<b>Past loss of earnings to date of hearing</b>	£65,511.90
<b>Past loss of pension to date of hearing</b>	£1,965.36
<b>Earnings/benefits received to date of hearing:</b>	
Universal Credit payments	-£619.82
Christmas 2023 event	-£300.00
<b>Total for past losses to date of hearing</b>	£66,557.44
<b>Future losses (3 months from date of hearing)</b>	£10,568.73
<b>Injury to feelings</b>	£12,000.00
<b>Sub-total - financial losses and injury to feelings</b>	£89,126.16
<b>ACAS Code uplift (10%)</b>	£98,038.78
<b>Interest – 294 days at 8% from mid point (18 September 2023)</b>	£6,328.20
<b>TOTAL AWARD</b>	<b>£104,366.98</b>

13. The claimant's award for breach of contract (expenses) was calculated as set out below:

- 13.1. Mobile phone - £162.58
- 13.2. Balance of mileage due - £254.62.

**Case No: 1801466/2023**

**Employment Judge Deeley**

**Date: 9 July 2024**