



THE EMPLOYMENT TRIBUNAL

SITTING: at London South by CVP

BEFORE: Employment Judge Tueje

MEMBERS: Mrs J Clewlow
Mr R Singh

BETWEEN:

MRS ENIOLA ALABI

Claimant

-and-

KINGSDALE FOUNDATION SCHOOL

Respondent

ON: 19th, 20th, 21st, 22nd and 23rd August 2024

Appearances:

For the Claimant: In person

For the Respondent: Ms D Gilbert (counsel)

JUDGMENT

The following is the unanimous judgment of the Tribunal and is based on the list of issues in the Appendix to this judgment

1. The complaint of direct age discrimination is not well-founded and is dismissed.
2. The complaint of direct sex discrimination is not well-founded and is dismissed.
3. The complaint of direct marriage or civil partnership discrimination is not well-founded and is dismissed.
4. The complaint of harassment related to age is not well-founded and is dismissed.
5. The complaint of harassment related to sex is not well-founded and is dismissed.

6. The complaint of unfair dismissal under section 95(1)(c) of the Employment Rights Act 1996 is not well-founded and is dismissed.
7. The complaint of breach of contract is not well-founded and is dismissed.
8. The complaint of unauthorised deduction from wages breach is not well-founded and is dismissed.

Employment Judge Tueje
Date: 4th September 2024

Sent to the parties on
Date: 6th September 2024

APPENDIX

- (1) The final list of issues on which the Tribunal made its findings of fact had been updated on the first day of the final hearing on 19th August 2024, when the claimant sought to amend the list of issues previously agreed between the parties at the preliminary hearing on 19th July 2024. Some of the claimant's proposed amendments were agreed

by the respondent, others were opposed. The amendments which were opposed included adding the following words:

“while deliberately hindering and boycotting evidence of high performance, promotion and pay increase.” to paragraphs 2.8 and 2.11;

“Respondent started Claimant on the lowest pay scale of M1 despite Claimant’s qualification up to Master’s degree level and industry experience which is different from how others were treated.” to paragraph 2.13; and

“on various occasions” to paragraph 2.19.

- (2) The respondent objected partly because some amendments sought were similar to the amendments contained in her particulars of claim dated 10th September 2023, which the claimant had already been refused permission to rely on at earlier preliminary hearings on 23rd April 2024 and 16th July 2024.
- (3) Despite several attempts, the claimant was unable to show how the proposed amendments which were disputed, formed part of her existing claim. Therefore, having regard to *Selkent v Moore [1996] ICR 836*, the final list of issues consisted of the previously agreed list of issues, plus only the amendments agreed by the respondent.
- (4) When announcing its judgment on 23rd August 2024, the Tribunal set out its findings on each of the factual allegations as set out in the final list of issues (see the Appendix). However, initially, it applied those findings to the complaints as set out in the previously agreed list of issues not the updated/final list of issues. When the claimant pointed this out at the hearing, the Tribunal corrected the position, and confirmed its judgment in respect of all matters contained in the list of issues as updated on 19th August 2024.
- (5) That final list of issues on which the Tribunal made its finding of facts was as follows:

Factual allegations relevant to discrimination, harassment, constructive unfair dismissal

2. Did the respondent do the following things¹:
 - 2.1 ~~Not confirm the claimant in her permanent role and not give her a contract of employment.~~ (CD)
 - 2.2 In July 2020 Mr Casco call the claimant “pretty woman”.(SH)
 - 2.3 In September 2020 putting Miss rather than Mrs on the claimant’s payslips. (AD, MCP, CD)
 - 2.4 Not providing the claimant with a laptop when needed during lockdown. (CD, BOC)

¹ Abbreviations: AD – direct age discrimination, AH – age related harassment, SD – direct sex discrimination, SH – sex-related harassment, MCP – direct marriage or civil partnership discrimination, BOC breach of contract, CD – constructive dismissal.

- 2.5 Failing to support the claimant with support with student behavioural issues, including not providing the claimant with a teaching assistant and the behaviour of Mr Barot on entering the classroom in December 2020. (AD, AH, CD)
- 2.6 Not allowing the claimant to teach GCSE computer science or 6th form students, despite these being less challenging and demanding and being refused permission to utilise 3D Graphics and new technology, in contrast to younger colleagues. (AD, SD, CD)
- 2.7 February 2022 a staff member (Mr Jordan Casco) using the term “motherfucker”. (SH)
- 2.8 Purporting to extend the claimant’s probation from February 2022 (AD, SD, CD)
- 2.9 Re-rooming the claimant’s classroom in April 2022 to the D&T classroom where there were knives in a round container on a raised surface such as a stool / table, and in September 2022 to room IT1 where there were sharp computer edges and broken sockets, both in breach of health and safety regulations. (CD)
- 2.10 Dr Okola and Gail Harrison providing negative feedback in relation to a lesson observation on 18 October 2022 and the manner in which feedback was given, including making the claimant sit at a pupil desk. (AD, AH, SD, SH, CD)
- 2.11 Not being moved to level M3 or being given a 5% pay increase between September and December 2022. (AD, SD, CD)
- 2.12 Not allowing the claimant to apply for to role of Head of Department in comparison with Mr Young. (AD, CD, SD)
- 2.13 Being given a timetable in excess of other NQTs. (AD, SD, CD)
- 2.14 Not being given payslips from April 2022 to December 2022 (CD, BOC)
- 2.15 Not being given access to the intranet or needed stationery, notebooks for pupils, whiteboard pens or staplers. (BOC, CD)
- 2.16 Not confirm the claimant in her permanent role, not being provided with a contract of employment or particulars of her employment until after six months from the commencement of her employment (CD)
- 2.17 The employment of Mr Turner a much younger and less qualified person when the claimant was still awaiting confirmation of her permanent contract (AD, SD, CD)
- 2.18 In July 2022, refusing to hold a back to work meeting after an illness due to being too busy with a younger colleague, Mr Jordan Casco (AD, CD)
- 2.19 Remotely controlling the claimant’s computer on 18 October 2022 so as to hinder her work (CD,BOC)