



EMPLOYMENT TRIBUNALS

Claimant

Miss J. Veitch

AND

Respondent

(1) Kit Couture Ltd.

(2) Ms K. McArthur

RECORD OF A PRELIMINARY HEARING

Heard at: Cambridge Tribunal, by CVP

On: 2 September 2024

Before: Employment Judge Douse (sitting alone)

Appearances

For the claimant: Mr. T. Edney, CAB Employment Adviser

For the respondent: Non-attendance

RESERVED REMEDY JUDGMENT

1. The Respondent must pay the Claimant a sum of **£2,000**, in relation to the claim for discrimination on the grounds of pregnancy.
2. The Respondent must pay the Claimant 8% interest on the sum above, amounting to **£185.86**

REASONS

Background

1. On 2 September 2024, I determined that the Claimant's complaint of pregnancy discrimination - in relation to being tricked into resigning from her position – was well-founded and succeeded.
2. The Claimant's schedule of loss identified that she fell within the middle band of 'Vento' guidelines, and then indicated an amount of £24,450 which is above the mid-point of that band.

Facts

3. The relevant fact and conclusions at the relevant hearing were:
 - 3.1. On 19 June 2023, the Claimant told the Respondent that she was pregnant and indicated that she did not think she could continue with her Apprenticeship. She requested to stay on with the Respondent as a Salon assistant/receptionist. The Claimant's position was that this was agreed, aside from the specific details of matters like pay. The Respondent's documented decision, post termination of the contract, was that she agreed to look at business needs.
 - 3.2. There was clearly a discussion about the Claimant taking on a different role, and her communications after 19 June confirmed her impression that this was going to happen. None of the Respondent's communications at the time did anything to dispel the Claimant's belief, but neither do they overtly confirm an offer.
 - 3.3. On 4 July 2023, the Respondent confirmed that she needed written confirmation of the Claimant's wish to end her apprenticeship but stay on in the alternative role. The Claimant supplied this on the same day.
 - 3.4. On 6 July 2023, the Respondent told the Claimant that the only role available was a zero-hour contract as the business had no need for a fulltime assistant/receptionist.
 - 3.5. On 7 July 2023, the Respondent confirmed the position in writing and said that the Claimant could withdraw the apprenticeship resignation (although indicated there was no obligation to accept this). The Claimant declined to withdraw as the apprenticeship wasn't a good option.
 - 3.6. The Claimant's claim for automatic unfair dismissal failed, as her pregnancy was not the principal reason for dismissal (the Respondent had raised performance issues prior to the Claimant notifying of her pregnancy).

- 3.7. However, the Respondent took advantage of the situation and allowed for confusion. She took the opportunity to conflate the pregnancy and performance issues, and the pregnancy was therefore an effective cause of how she treated the Claimant. That amounted to discrimination
4. The Claimant gave evidence that:
 - 4.1. The situation had caused her stress, in particular worry about providing for her baby;
 - 4.2. She was unwell during pregnancy – she could not directly attribute this to the stress, but it probably amplified the situation
 - 4.3. She felt vulnerable because of her pregnancy, and the situation made this worse
 - 4.4. She had always wanted to be a hairdresser, and had worked in salons since the age of 13
5. The Claimant's mother gave evidence that her daughter was: emotional; upset; tearful; and confused after 6 July. Additionally, she was worried about the pregnancy and financial situation.
6. The Claimant's partner gave evidence that the Claimant wasn't herself because of what happened and the stress she, and her family, were under.

Law

7. In *Vento v Chief Constable of West Yorkshire Police (No.2) 2003 ICR 318, CA*, the Court of Appeal gave specific guidance on how tribunals should approach the issue of injury to feelings. Lord Justice Mummery identified three broad bands of compensation:
 - 7.1. A top band to be applied only in the most serious cases, such as where there has been a lengthy campaign of discriminatory harassment. Only in very exceptional cases should an award of compensation for injury to feelings exceed £25,000
 - 7.2. A middle band for serious cases that do not merit an award in the highest band, and
 - 7.3. A lower band appropriate for less serious cases, such as where the act of discrimination is an isolated or one-off occurrence. The Court said that, in general, awards of less than £500 should be avoided, as they risk being regarded as so low as not to be a proper recognition of injury to feelings.
8. These bands have since been periodically updated to reflect inflation and the decision reached in the personal injury case of *Simmons v Castle 2012 EWCA Civ 1288, CA*. The most recent band values are:
 - 8.1. Lower band of £1,200 to £11,700 (for less serious cases)
 - 8.2. Middle band of £11,700 to £35,200 (for cases that do not merit an award in the upper band), and

- 8.3. Upper band of £35,200 to £58,700 (for the most serious cases), with the most exceptional cases capable of exceeding £58,700.

Submissions

9. I asked the Claimant's representative for submissions on how the amount in the Schedule of Loss had been reached. He explained that he thought that in the circumstances related to pregnancy the situation demanded that level of award.
10. He said he had read some Guidance indicating this was an appropriate award but could not refer me to it.
11. Similarly, when invited, he was unable to refer me to any case law that supported his position.

Conclusions

12. Although the sequence of events started on 19 June 2023, the discriminatory act – being tricked into resigning her position - was effectively a one-off event/isolated occurrence. This occurred on 6 July 2023, when the Respondent informed the Claimant that there was no role as assistant/receptionist available, and the consequences of the Claimant's resignation as an apprentice became apparent.
13. I do not accept the proposition that the discriminatory act was so serious that it warrants placing in the middle band. It is exactly the sort of situation envisaged for the lower band.
14. In relation to the effect on the Claimant, she experienced feelings of stress and worry about the future, but did not describe anything beyond that in relation to her physical health. She was very clear that she couldn't attribute any of the physical pregnancy illness to how the Respondent had treated her.
15. I reflected on the potential career effect, and the Claimant's long-term goal to be a hairdresser, and noted that she had taken the decision to end her apprenticeship before discussing alternative options with the Respondent. She also declined to withdraw the resignation. Although she may have stayed within the salon environment, she would not have continued that qualification route at that time, even if the Respondent had not carried out the discriminatory act.
16. Taking all of the circumstances into account, the Claimant's case falls at the lower end of the lower band, and an appropriate award for injury to feelings is £2,000.
17. It is in the interests of justice to award interest on the injury to feelings award – that is at a rate of 8% per day from the date of the discriminatory act to the date of calculation.

Calculation

- Injury to feelings award = £2,000
- Discriminatory date = 06/07/2023
- Calculation date = 03/09/2024
- Interest rate = 8%
- Number of days = 424 inclusive
- Interest = $424 \times 0.08 \times \frac{1}{365} \times 2,000 = \underline{\underline{\pounds 185.86}}$

Employment Judge K Douse

Dated: ...3 September 2024.....

Sent to the parties on: 3 October 2024

For the Tribunal Office