



EMPLOYMENT TRIBUNALS

Claimant: Christine Oliver

Respondent: Walsall MBC

Heard at: West Midlands

On: 8th December 2023

Before: Employment Judge Steward
Mrs Ahmad
Ms Malatesta

Representation

Claimant: In Person

Respondent: Mr Abdullah (Solicitor)

Remedy Judgment with reasons

The Respondent shall pay to the claimant a compensatory award in the sum of £6091.05p

1. The claimant has claimed loss of earnings in a formula from 23.12.2021 until 23.12.2022 and equates that loss at £26,796.
2. The claimant has provided a short schedule of loss document outlining the efforts she made to find employment post her dismissal. She regularly looked for employment on job sites and states that most jobs require a maths GCSE. She enrolled on a course at Walsall College in October 2022. She has not provided any further evidence of job applications she has made or any details of any job interviews.
3. The respondents make the point that the claimant was offered an RCCW role that was the same salary as her current role ring fenced for 12 months. This was part of the redundancy process. There is a shortage of employers in the care sector. The bundle provides further vacancies available and the point is made there are larger local authorities in the area than Walsall.

4. The respondents state the claimant failed to mitigate her loss. In that regard we apply the test in the case of **Gardiner-Hill v Roland Berger 1982 IRLR 498 EAT** which states
 - (i) What steps were reasonable for the claimant to have taken to mitigate the loss?
 - (ii) Whether the claimant did take reasonable steps to mitigate?
 - (iii) Would she have mitigated if she had if she has taken these steps?
5. We do not accept that the claimant took all the necessary steps to mitigate her loss. Looking at a jobs website does not go far enough given the information that the respondents have provided. She could have done more and shown evidence of active applications to other employers and other local authorities.
6. The claimant therefore did not take all reasonable steps to mitigate and if she had she would have mitigated.
7. We must make an award which is just and equitable given all the circumstances. The claimant was offered an alternative role at the same level of pay which was refused but as we found at the substantive hearing she was never offered the role of assistant manager. For the purpose of this hearing we should not speculate as to whether she would have taken the role if offered.
8. We have been told today that the claimants net pay of £2194 per month is the correct figure to be used to calculate any award. Its agreed that the pension loss would be 20% of the gross monthly pay. Taking the claimants loss of earnings at its highest this would be £26,796. However we do find that the claimant failed to mitigate her loss. We find that the claimant would have found an alternative role within 2 months if she had made a concerted effort.
9. We therefore award loss of earnings of £4388 which is 2 months net pay.
10. We also award 2 months net pension contributions in the sum of £601.53
11. No evidence was put before us as to future loss and we approach the case on the basis the claimant would have got a suitable alternative role on similar terms.
12. We also make an award of loss of statutory rights in the sum of £500.

Employment Judge Steward

Signed on 08.12.2023