EMPLOYMENT TRIBUNALS

Claimant: Ms E Jimmison

Respondents: Eteach Group Services Limited

HELD AT: Reading Employment Tribunal (By CVP) **ON:** 9 and 10 June 2025

BEFORE: Employment Judge Buckley

REPRESENTATION:

Claimant: In person

Respondents: In person (Mr. Weideman – director)

RESERVED JUDGMENT

1. The complaint of pregnancy discrimination is well-founded and succeeds.
2. The respondent will pay the claimant the sum of **£10,879.50** made up of:
    a. **£6073.40** compensation for past financial losses
    b. **£306.10** interest on compensation for past financial losses calculated in accordance with the Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996
    c. **£4,500** compensation for injury to feelings, including interest

3. The recoupment regulations so not apply.

REASONS

Issues

1. The issue for me to determine was whether the claimant's dismissal or selection for redundancy was because of her pregnancy.

Evidence

2. The claimant gave evidence. For the respondent I heard from Ian Weideman, finance director, and Ernesto Gomez, Group HR Manager. I did not accept the respondent's witnesses' evidence on a number of points, as explained below and in my findings of fact.

3. There was a lack of supporting documentation provided by the respondent, and Mr. Weideman's evidence as to when the decision was made that redundancies were needed in secondary recruitment was unclear.

4. The bundle prepared by the respondent had not initially included any evidence relating to the decision to make the claimant redundant or the redundancy process.

5. I asked the respondent at the start of the hearing if that was all the documentation that they wished to rely on, to which Mr. Weideman replied 'yes'. I highlighted to the respondent that it had not produced any evidence relating to the decision to make the claimant redundant. I highlighted to the respondent that the question for the tribunal was whether the claimant's dismissal or selection for redundancy was because of her pregnancy and that I would expect the company to hold some documents relevant to the decision to make redundancies, including for example minutes of meetings where the decisions were made. I postponed the hearing until 10am the next day to give the respondent the opportunity to produce any relevant documentation.

6. The respondent produced a new bundle for the second day of the hearing. It included a very short summary of, presumably, a small section of a board meeting on 20 September 2023. That summary had been produced for the hearing rather than being a contemporaneous document. The bundle did not include the minutes of that meeting.

7. In oral evidence in response to a question from the claimant Mr. Weideman stated 'the decision to proceed to redundancy was made in September'.

8. As per my findings below, no decision was made at the board meeting to consider redundancies in secondary recruitment, it was simply identified that recruitment was one of the underperforming teams and agreed that headcount 'would be reviewed.' Mr. Weideman's evidence in his witness statement was that the board agreed the need for a 'possible headcount reduction'.

9. The bundle contains no documents from the period between the board meeting in September 2023 and the first redundancy consultation meeting with the claimant on 29 January 2024.

10. Mr. Weideman's witness statement says:

> During the later part of December, the decision was made that further cost reductions might be needed to ensure the viability of the business and the difficult decision was made to look at the possibility of redundancy in loss making teams firstly. The secondary recruitment desk was identified as part of a wider cost review. This desk consisted of 1 biller and has not been commercially viable for some time.

11. His witness statement then immediately goes on to consider a shareholders meeting 'at the start of March 2024.' This is after the claimant was dismissed.

12. In the bundle it states on page 43, 'Secondary recruitment was identified as loss making during the financial year to date (Nov 23 – Jan 24) Income £ 7,444 – Headcount cost £ 10,450 + Employers cost and excluding overheads. Therefore, not financially viable'. I asked Mr. Weideman when secondary recruitment was specifically identified as loss making as set out in the bundle. I pointed out that the decision could not have been taken in September 2023 because it relies on figures from November 2023. He replied that the decision was taken in December at a management meeting.

13. When I pointed out the figures included January 2024 he stated that they had identified in December that secondary recruitment was loss making and not financially viable, but that there was always a last minute hiring spree in January, and so they knew that January could still 'rescue it' or turn it around. He said that they had decided that if January was not good they would have to re-evaluate.

14. I therefore asked him again when the respondent made the final decision that secondary recruitment was not viable. His evidence was that the decision was made at the beginning of January. When I asked him who had made that decision, and at what type of meeting he replied 'That would have been in a management team meeting with me, the CEO and one of the other shareholders'. There were no minutes or notes of such a meeting in the bundle.

15. Later in the evidence I asked him what happened between the decision at the beginning of January that secondary recruitment was not viable and the claimant being informed that she was at risk at the end of January. His response was that they had waited until the end of the quarter to make a final decision. 'We were waiting and hoping that we wouldn't have to do it…the decision was that we can't see this turning around over the next quarter'.

16. I asked if there was then another decision taken towards the end of January which was the final decision. He agreed and said, yes that's where the final decision was made 'that we were going to look at making the role redundant'. I asked when that decision was made. He said that it was made by the CEO and would normally be made 'on the day' or 'the day before' i.e. on the 28 or 29 January.

17. Mr. Gomez' witness statement says that the decision that the secondary recruitment team was not financially viable was made in September 2023, but in support of this he refers to figures from between November and March 2024. When I asked him in evidence if he agreed with Mr. Weideman that the decision was not made until 29 January 2024, he agreed and stated that they had a

meeting at the end of January 'just before this happened'. He said that at that meeting he 'did mention the pregnancy' but the decision was nothing to do with that.

18. Overall I found the evidence of the respondent's witnesses and in the bundle in relation to how and when the decision was made to make the claimant's role redundant very unsatisfactory.

19. The respondent had had the opportunity to provide relevant documents before the hearing, and was given another opportunity in the hearing itself after I had specifically highlighted the type of documentation that was likely to be relevant.

20. Despite this, the respondent did not produce the minutes of the board meeting in which an initial decision was said to have been made, instead providing a summary of small part of that meeting. In addition, both witness statements created the impression that the decision to make redundancies in secondary recruitment was made before the claimant had informed them that she was pregnant. Neither witness statement made any reference to a meeting on 28/29 January at which the decision to make the claimant's role redundant was made. No minutes were produced of that meeting nor of any of the other meetings that were supposed to have taken place in late December an early January. The only contemporaneous documentary evidence of the underlying commercial decision to make redundancies dates from after the claimant had been dismissed.

21. I have provided further detail within my findings of fact where I have not accepted the evidence of the respondents' witnesses.

Relevant Law

Section 18

22. Section 18 of the **Equality Act 2010** provides materially as follows: -

> "(1) This Section has effect for the purposes of the application of Part 5 (Work) to the protected characteristic of pregnancy and maternity.
> (2) A person (A) discriminates against a woman if, in the protected period in relation to a pregnancy of hers, (A) treats her unfavourably - (a) because of the pregnancy...
> .....
> (6) The protected period, in relation to a woman's pregnancy, begins when the pregnancy begins and ends (a) ...at the end of the...maternity leave period or (if earlier) when she returns to work after the pregnancy..."

23. Under chapter 1 of that Part 5 it is provided that an employer must not discriminate against an employee by subjecting the employee to any detriment or dismissing him (Section 39 (2)(c) and (d)).

24. Discrimination under Section 18 involves consideration of causation. The unfavourable treatment must be "*because of*" the pregnancy. A person may act for a variety of reasons, all of which determine the outcome constituted by his decision

or action. Where there is a mixture of reasons, the test is that expressed by Elias J in **Law Society v Bahl** [2003] IRLR 640 at paragraph 83:

> "... the discriminatory reason for the conduct need not be the sole or even the principal reason of the discrimination; it is enough that it is a contributing cause in the sense of a 'significant influence'."

25. The reference to 'significant influence' was taken from Lord Nicholls' speech in **Nagarajan v London Regional Transport** [2000] 1 AC 501 in which he observed, at 512-3:

> "Decisions are frequently reached for more than one reason. Discrimination may be on racial grounds even though it is not the sole ground for the decision. A variety of phrases, with different shades of meaning, have been used to explain how the legislation applies in such cases: discrimination requires that racial grounds were a cause, the activating cause, a substantial and effective cause, a substantial reason, an important factor. No one phrase is obviously preferable to all others, although in the application of this legislation legalistic phrases, as well as subtle distinctions, are better avoided so far as possible. If racial grounds or protected acts had a significant influence on the outcome, discrimination is made out."

26. In **Laing v Manchester City Council** [2006] IRLR 748, [2006] ICR 1519 Elias P observed as follows:

> '71. We would add this. There still seems to be much confusion created by the decision in Igen v Wong. What must be borne in mind by a tribunal faced with a race claim is that ultimately the issue is whether or not the employer has committed an act of race discrimination. The shifting in the burden of proof simply recognises the fact that there are problems of proof facing an employee which it would be very difficult to overcome if the employee had at all stages to satisfy the tribunal on the balance of probabilities that certain treatment had been by reason of race.
>
> 72. The courts have long recognised, at least since the decision of Lord Justice Neill in the King case to which we have referred, that this would be unjust and that there will be circumstances where it is reasonable to infer discrimination unless there is some appropriate explanation. Igen v Wong confirms that, and also in accordance with the Burden of Proof directive, emphasises that where there is no adequate explanation in those circumstances, then a Tribunal must infer discrimination, whereas under the approach adumbrated by Lord Justice Neill, it was in its discretion whether it would do so or not. That is the significant difference which has been achieved as a result of the burden of proof directive, as Peter Gibson LJ recognised in Igen.
>
> 73. No doubt in most cases it will be sensible for a tribunal formally to analyse a case by reference to the two stages. But it is not obligatory on them formally to go through each step in each case. As I said in Network Rail Infrastructure v Griffiths-Henry [2006] IRLR 865 (at para 17), it may be legitimate to infer that a

black person may have been discriminated on grounds of race if he is equally qualified for a post which is given to a white person and there are only two candidates, but not necessarily legitimate to do so if there are many candidates and a substantial number of other white persons are also rejected. But at what stage does the inference of possible discrimination become justifiable? There is no single right answer and tribunals can waste much time and become embroiled in highly artificial distinctions if they always feel obliged to go through these two stages."

Findings of fact

27. The claimant was employed by the respondent as a recruitment consultant from 1 September 2022 until her dismissal on 1 March 2024. When she started work she worked mainly with primary schools. In January 2022 she was asked to start working with some Multi-Academy Trusts, both primary and secondary. In May 2023 teams were split into permanent, SEN and supply. The claimant was on the permanent team with two other colleagues and a line manager, dealing with both primary and secondary recruitment.

28. In the second half of 2023 the business suffered from increased cost pressures and uncertainty caused by the wider economic and political environment.

29. In September 2023 the claimant was asked to start focusing mainly on secondary schools to build up business within Surrey and Berkshire. She retained some existing primary school work, but her work going forward focused on secondary. This was described as a ‘cold desk’, which meant that there were no existing clients or candidates in that area and the claimant was starting from scratch to build up business. She was allocated a member of staff as a secondary recruitment resourcer. According to Mr. Weideman, the claimant was moved to secondary because the secondary desk was ‘set as a focus area for the business for growth’.

30. At that time the recruitment team consisted of a team leader, a recruitment consultant working on SEND, a SEND recruitment resourcer, a trainee consultant working on SEND, the claimant and the secondary recruitment resourcer.

31. A board meeting took place on 20 September 2023 at about the same time as the claimant was asked to start focusing on secondary schools. I do not know if this was shortly before or shortly after the claimant was asked to focus mainly on secondary, but it must have been within a few weeks of that date either way.

32. At that meeting the board identified that ‘recruitment’ was underperforming in the year to date at £114,000 behind the previous year. It also identified that sales and CSM were £52,000 behind the previous year. It was agreed at this meeting to review headcount and overall cost base reductions. Mr. Weideman’s evidence in his witness statement was that the board agreed the need for a ‘possible headcount reduction’ without identifying whether this was limited to specific areas.

33. I accept that at some point, whether in this meeting or otherwise, £220,000 was identified as potential overhead costs savings and that these were actioned and executed during the period October to December 2023

34. The respondent did not include in the bundle any contemporaneous notes or minutes of the board meeting in September. The 'notes' of the board meeting in the bundle were very limited and prepared for the purpose of this hearing (without forming part of a witness statement signed by a statement of truth). Even those limited notes do not suggest that in the board meeting any two-stage process had been discussed or agreed where redundancies would be considered or made initially in secondary recruitment before other redundancies were considered.

35. The next bold heading in the bundle after 'Board meeting notes' is 'Step one cost reductions' but that cannot relate to decisions taken at the board meeting because it includes reference to figures up to January 2024.

36. Given that the claimant had, at about the same time, been asked to move to focussing on secondary, which was a 'cold desk', because the secondary desk was 'set as a focus area for the business for growth' it seems highly unlikely that any decision that secondary recruitment was not profitable was made at the September board meeting. Mr. Weideman confirmed in a response to a question from me, that the identified underperformance was a reference to recruitment as a whole at that point.

37. For those reasons I reject Mr Gomez' evidence in his witness statement that in September 2023, Eteach's leadership reviewed the company's financial position and had identified that secondary recruitment specifically was not financially sustainable. I note that the figures included by him in support of that statement are from between November 2023 and March 2024.

38. I reject Mr. Weideman's initial oral evidence in which he stated that 'the decision to proceed to redundancy was made in September' for the reasons set out above.

39. I find on the balance of probabilities that no decision was made at the board meeting to consider redundancies first in secondary recruitment, as part of any 'step one'. I find that it was simply identified at the board meeting that recruitment was one of the underperforming teams and agreed, in general, that headcount 'would be reviewed.' That headcount review formed the subject matter of a shareholders meeting on 14 March, where the need for a headcount reduction of £555,000 per annum was approved.

40. The evidence was very unclear on (i) when the decision was taken to consider redundancies in secondary recruitment and (ii) when the decision was taken to commence the redundancy consultation process in relation to the claimant earlier than in relation to other potential redundancies. There was a complete absence of any contemporaneous documentation, or even any equivalent of the 'notes' of the board meeting, in the period between the board meeting and the commencement of the claimant's redundancy consultation.

41. Doing my best with the evidence before me, I find on the balance of probabilities that although some discussions had taken place in December and early January about the profitability of secondary recruitment, no decision was taken in those meetings to discontinue secondary recruitment work, or to start a redundancy process in relation to that particular part of the business earlier than the wider cost review/consideration of restructuring the rest of the business.

42. I do not accept, on the balance of probabilities, that a decision was made by the business before 15 January 2024 that they would look first at redundancies in secondary recruitment, because it was a loss-making team, in an attempt to avoid the need for further cuts. There is no contemporaneous written evidence of such a decision. Mr. Weideman's evidence as to what decisions were taken when was unclear, but ultimately his evidence was that it was in a meeting at the end of January that the respondent decided that secondary recruitment was not viable and that a redundancy process would be commenced in relation to the claimant.

43. On 15 January 2024 the claimant informed the respondent that she was pregnant and was looking to start her maternity leave on 24 June 2024. The claimant had not yet provided her MATB1 form, and I accept that Mr. Gomez did not know the exact date that would trigger the claimant's entitlement to statutory maternity pay if she remained employed.

44. The claimant asked Mr. Gomez if he knew that at the date of dismissal she was 9 days away from qualifying for statutory maternity pay. He said that he did not know that. However, he stated later in his evidence that at the time he did not know whether the trigger date was 'four days away or one month away or two months away' [from the date of dismissal on 1 March]. He did not say that the date might already have passed.

45. On that basis and taking account of Mr. Gomez' role, in my view it is likely, and I find on the balance of probabilities, that although he did not know the exact date, he knew that the trigger date had not yet arrived but was approaching in the fairly near future, and that he thought that it was at some unspecified point after, rather than before, the beginning of March.

46. I find that in a meeting on about 28 January the decision was taken to immediately commence a redundancy process in relation to the claimant.

47. Following that meeting, the claimant was informed that she was at risk of redundancy in a meeting on 29 January, attended a consultation meeting on 31 January and an outcome meeting on 2 February when she was dismissed, with notice with effect from 1 March 2024. The claimant did not appeal. The claimant took the view that it was highly unlikely that respondent would change its decision. Given the respondent's financial position and the redundancies that took place shortly afterwards I agree.

48. Doing my best from the evidence available, it is probable, based on Mr. Gomez' evidence, that the meeting was attended by Mr. Gomez, Mr. Weideman and the CEO. At that meeting Mr. Gomez mentioned the fact that the claimant was pregnant.

49. I do not accept Mr. Gomez and Mr. Weideman's evidence that the claimant's pregnancy played no part in the decision to immediately commence a redundancy process in relation to the claimant, rather than deal with the claimant along with the other employees in March as part of the wider review, for the following reasons.

50. First, the respondent has not kept any notes or minutes of that meeting. The meeting at the end of January was not mentioned anywhere in evidence until I questioned Mr. Weideman. It is not in either of the witness statements or in any of the 'commentary' included the bundle. Mr. Weideman kept suggesting earlier meetings before, on further questioning about the dates of the financial position relied on, eventually giving evidence that the decision had taken place at the end of January (after the claimant found out she was pregnant).

51. Mr. Gomez and Mr. Weideman both initially suggested (in evidence I have rejected above) that the decision was taken in September 2023. Mr. Gomez said in his witness statement that in September 2023 Eteach's leadership had identified that secondary recruitment specifically was not financially sustainable and in Mr. Weideman's initial oral evidence he initially stated that 'the decision to proceed to redundancy was made in September'.

52. There is no formal or informal record of the decision that had been taken. This is in stark contrast to the later decision to commence a redundancy process in March 2024. A shareholders meeting was held on 8 March 2024 where the need for wider cost reductions were approved. Although there are no minutes from that meeting in the bundle, the respondent has extracted/summarised some 'notes' from that meeting as follows:

    - Shareholders reviewed financial performance and cashflow forecasts.
    - Management identified the need for further cost reductions across the business.
    - Shareholders approved the need for wider cost reductions across all of Eteach Group following board meeting dated 20/09/2023 as follows o IT contractors - £ 295k p/a o Headcount reduction £ 555k p/a
    - 14/03/2024 – CEO send all company email informing of possible redundancies and cost reductions.

53. An email was then sent to all employees as follows on 14 March 2024, which read:

    Notice to all employees of Eteach Group Services.

    As you know, the business landscape is constantly evolving, and cost-based pressures are at the highest we have seen.
    Eteach must adapt to meet these pressures and ensure the long-term success and viability of this business.
    With that in mind, I'm writing to inform you that we are undergoing a companywide staffing review to ensure that our company structure, costs and operations align with our current business needs as well as our future growth aspirations.

> This review and any subsequent restructure may unfortunately lead to potential redundancies and or redeployments within some teams.
> We will endeavour to keep the number of colleagues impact to a minimum and or first and foremost priority is to protect as many roles as possible within the company.
> We understand this news will be unsettling, and we want to assure you that any decisions regarding this announcement have not been taken lightly. We deeply value each and every one of you and your contributions to this business.
> We have already opened discussions around the review with the management team and are looking at way in which we can mitigate the impact of any proposed changes.
> Those individuals directly affected will be communicated with once we have a clearer picture.
> We understand this period of uncertainty can be stressful, and we're committed to open communication throughout this period and to support those colleagues affected. We understand that this may come as a shock, and we're dedicated to providing a supportive and transparent environment as we navigate this process together.
> More information will be communicated shortly.
> …

54. For all those reasons I infer that the respondent was trying to present a picture to the tribunal that the decision in relation to the claimant had been taken before the respondent knew that the claimant was pregnant.

55. Second, although the respondent had identified at the end of January 2024 that secondary recruitment was a loss making seat, I am not persuaded by the respondent's witnesses' assertions that it was hoped that by carrying out the claimant's redundancy process first, further redundancies could be avoided.

56. Between November 2023 and March 2024 secondary recruitment had a net contribution margin of a loss of £9,899.35. On 8 March 2024 the shareholders meeting identified the need for wider cost reductions across all of Eteach Group of £295,000 per annum (IT contractors) and £555,000 per annum headcount reduction.

57. I find that the respondent was already aware of the scale of the financial problem in January 2024. It had been identified in the board meeting in September 2023, and by the end of January 2024 the respondent would have 4 months of further figures. It seems highly unlikely that just 5 weeks before the shareholders meeting the respondent genuinely believed that it could stave off the need for a headcount reduction of that magnitude by commencing the redundancy process against the claimant.

58. Further, the period between the claimant's redundancy process commencing and the decision to commence a wider headcount reduction is too short for the respondent to have genuinely been considering the impact. The shareholders meeting took place one week after the claimant's dismissal.

59. If the process was commenced early against the claimant only because secondary recruitment was a loss-making seat it is not clear why the respondent did not also commence a redundancy process in relation to the other member of staff working on secondary recruitment at the time – referred to in the bundle as the 'Secondary Recruitment Resourcer'.

60. I did not find convincing the respondent's explanation of why the redundancy process was commenced immediately against the claimant and not commenced in relation to the secondary recruitment resourcer until 15 March 2024. Mr. Weideman's evidence on this was, I find, evasive and confusing.

61. The claimant asked Mr. Weideman why the secondary recruitment resourcer was not included in the pool of redundancies at that point in January. Mr Weideman's first response to this question was that the resourcer had a completely different role to the claimant and therefore could not be in a pool with her. I pointed out to Mr. Weideman that the claimant was not using the term 'pool' in a technical sense and what the claimant was getting at was why the process was started later in relation to the resourcer. In response he said that it was because they started with loss making revenue earners and it was not financially viable to keep the permanent recruitment desk running. That did not explain *why* they started with loss making revenue earners (in fact, only the claimant) as opposed to non-revenue earners working on loss making desks. It does not explain why the recruitment resourcer was not included in the process at the same time.

62. Eventually Mr. Weideman said that it was because the resourcer did not work exclusively in secondary recruitment. When I asked whether she was therefore later placed in a redundancy pool with the other recruitment resourcer in the recruitment team, he said that there was no other recruitment resourcer in the recruitment team. When I pointed out that the organizational chart provided by the respondent showed that there was another recruitement resource at the time (the chart shows a SEND recruitment resourcer and a secondary recruitment resource), he accepted that there was another recruitment resourcer but said that she was a trainee. I asked why that meant they were not put in the same pool and his reply was that this was 'a fluid situation' and they were looking to safeguard as many roles as possible. He said that they were initially looking at whether the resourcer could be potentially redeployed elsewhere but 'a couple of weeks later' the situation was 'really bad' and they had to progress to the next stage. It is unclear why redeployment was not considered within the redundancy process, as it was with the claimant, and how, within the space of 'a couple of weeks' the situation changed to such an extent that this was no longer viable.

63. On the basis of the way in which that evidence emerged, and taking into account the lack of any contemporaneous evidence of any discussion about why the resourcer was not included in a redundancy process at the same time, I do not accept that the reasons put forward by Mr. Weideman in evidence were reasons that he, or anyone else at the meeting at the end of January, had addressed his mind to at the time.

64. I am not persuaded that the reason why the claimant's redundancy process was commenced in January, rather than March, was because she was working in a loss-making seat.

65. Third, on 15 January, the claimant had told the respondent that she was pregnant and that she intended to take maternity leave from 24 June 2024. The fact that the claimant was pregnant was raised by Mr. Gomez in the meeting at the end of January. Mr. Gomez, as group HR manager, would have known that if the claimant remained in employment until her 'qualifying week', the 15th week before the expected week of childbirth, she would be entitled to SMP. Mr Gomez had not calculated exactly when that date was, because he had not received the MATB1, but I have found, on the balance of probabilities, that he thought that it would not yet have been reached at the beginning of March. Although the respondent would be able to claim back most (or all, if they were a small employer) of the SMP from the government, it is an upfront expense at a time when the respondent was in financial difficulties. I find that there would be an advantage to the respondent in dealing with the claimant's redundancy earlier than the other redundancies.

66. I accept that the respondent was suffering from financial difficulties. I accept that, ultimately, it took a commercial decision to remove not only secondary recruitment but the entire recruitment department and a number of other roles. I do not accept that there is any convincing explanation for why the respondent decided to deal with the claimant separately and prior to the headcount review and redundancy processes that started in March in relation to all other employees.

67. In the light of all the matters set out above, I infer that the claimant's pregnancy had a significant influence on and was an effective cause of the decision to commence the redundancy process early in relation to only the claimant on 29 January 2024 and on the consequent decision to dismiss her with effect from 1 March 2024.

68. Following the decision to dismiss the claimant, the shareholders meeting described above took place on 8 March 2024. The email from the CEO was sent out on 14 March 2024. The next day, on 15 March, the redundancy process commenced in relation to the recruitment resourcer who was dismissed with effect from 25 April 2024.

69. The outcome of the wider redundancy process was that the entire recruitment team either resigned, was made redundant or was dismissed between March and August 2024 and there were three other redundancy dismissals and 12 resignations across other departments between March and June 2024.

70. Although the respondent placed LinkedIn advertisements for posts including recruitment consultants in February and March 2024 I accept the respondent's evidence that this was done by mistake and I place no weight on this.

71. I find that if the process had not been started early in relation to the claimant, it is likely to have commenced immediately following the letter from the CEO, along with the process relating to the recruitment resourcer. I find that if there had been no discrimination, there is a 100% chance that the claimant would have been dismissed for redundancy in any event by 25 April 2024. The losses that flow

from the discrimination are therefore limited to the losses flowing from the fact that the dismissal occurred on 1 March 2024 instead of 25 April 2024.

72. The claimant claimed job seekers allowance from 6 March 2024, which would have been paid at a standard rate of £90.50 per week. She started looking for work in August 2024. She accepted a new position in October 2024 to start in January 2025. I find that there was no unreasonable failure to mitigate in the immediate 8 weeks following her dismissal. The claimant was very upset following her dismissal and pregnant and it was, in any event, extremely unlikely that the claimant would have found replacement work to start before 25 April.

73. If the claimant had remained employed until 25 April 2024 she would have been entitled in her maternity leave to 90% of her salary for 6 weeks then £184.03 every week for a period of 39 weeks. Instead, she received Maternity Allowance of £184.03 every week for 39 weeks. Her maternity entitlement would have been increased by £2,855.77 if she had been dismissed on 25 April instead of on 1 March 2024.

74. The claimant's salary was £487.16 per week. In the 8 weeks between 1 March and 25 April she would have been paid £3897.33.

75. The claimant was entitled to private health insurance while employed with the respondent. This cost the respondent £22.15 per month. I find that a reflection of the value to this for the claimant for 8 weeks is £44.30.

76. I am not persuaded on the evidence before me that the claimant would have become entitled to any commission payments for the period 1 March to 25 April. The claimant did not press this point, and she produced no evidence to support her assertion that there were 'potential commission payments'. I accept the respondent's evidence that this was unlikely given the claimant's previous figures.

77. The claimant was very excited to have been in a position to announce her pregnancy. It had been difficult to conceive and she was very pleased to be able to share the news. It was very upsetting for her to be placed almost immediately into a redundancy process and be given notice of dismissal only 6 weeks after she had informed the respondent that she was pregnant. I accept that the claimant was likely to have suffered some of this upset anyway if she had been dismissed 8 weeks later for reasons unrelated to her pregnancy. I accept that the financial uncertainty and reduced income also caused the claimant significant stress and upset. Although the reduction in maternity pay and the loss of 8 weeks wages contributed to this, the claimant would have suffered from financial uncertainty in any event if dismissed on 25 April. The upset has not had any impact on the claimant's ability to return to work, although she has decided not to work in recruitment anymore as a result.

Discussions and conclusions

78. On the basis of my findings of fact I conclude that the redundancy process against the claimant was started earlier than it would have been started if she was not pregnant, and that this led to her dismissal on 1 March. I conclude that

the redundancy process started when it did because of the claimant's pregnancy. I make these conclusions on the basis of the inferences I have drawn from the evidence as to the reason why the respondent reached that decision. I have set out in detail the process by which I made those inferences within my findings of fact above. In accordance with **Laing v Manchester City Council** it is not necessary for me to identify at what stage in the shifting burden of proof the possibility of making that inference arose.

79. On that basis I find that the respondent discriminated against the claimant in the protected period in relation to a pregnancy of hers by treating her unfavourably because of the pregnancy under Section 18 and section 29 of the Equality Act 2010 and the claim succeeds.

Remedy

80. In the light of the factual findings set out above, I find that the losses caused by the discrimination are limited to those caused by dismissing her on 1 March 2024 rather than on 25 April 2024. That is because I have concluded that the claimant would have been dismissed in any event on 25 April 2024.

81. These losses are:
    - 81.1. Decrease in statutory maternity pay: £2,855.77
    - 81.2. Loss of earnings: £3173.33
      £3897.33 – (£90.50 x 8 for jobseekers allowance) = £3173.33
    - 81.3. Loss of value of private health insurance: £44.30.

82. The claimant's failure to appeal would not have made a difference to the decision to dismiss and the ACAS code of practice does not apply. This therefore has no impact on the losses.

83. The claimant is entitled to compensation for past financial losses in the sum of **£6073.40**

84. The claimant is entitled to interest on compensation for past financial losses in accordance with the Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996. Interest is awarded at 8% per year from the halfway point between the date of discrimination and the date of calculation. That is a period of 33 weeks, which is about 0.63 years

85. I calculate the interest due on past losses as follows:

    8 x 0.63 = 5.04

    £6073.40 x 5.04% = **£306.10**

86. There are no future financial losses caused by the discrimination.

87. When assessing injury to feelings I bear in mind that the claimant would have been dismissed after a short period of time in any event. It is likely that the claimant would have experienced upset in any event having been made redundant at this

stage in her pregnancy even if she had not been discriminated against. She would have experienced financial stress in any event.

88. She suffered upset, but not psychiatric injury, which did not prevent her from feeling ready to start looking for work in August 2024. She became tearful in the hearing when describing the impact on her, but otherwise is able to carry with on her life as normal. The claimant did initially return to work in recruitment but I accept that she then choose to move in a new direction in part because of the stress of being dismissed in these circumstances. I decided that instead of awarding interest separately on the award for injury to feelings I would take this into account in determining the award that I make.

89. Taking all this into account and my findings of fact above, in my view the claimant's injury to feelings falls towards the lower middle of the lower band of **Vento** (£1,200 to £11,700) and I award **£4500** for injury to feelings.

90. **The total compensation awarded is £10,879.50**

Approved by Employment Judge Buckley

Date: 11 June 2025

JUDGMENT SENT TO THE PARTIES ON
18 June 2025

FOR THE TRIBUNAL OFFICE

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