



EMPLOYMENT TRIBUNALS

Claimant: Ms A Gay
Respondent: Leeds Warehousing Solutions Ltd
Heard at: Leeds **On:** 2 March 2018
Before: Employment Judge Davies
Representation
Claimant: In person
Respondent: Did not attend

JUDGMENT

Issued pursuant to Rule 21 Employment Tribunals Rules of Procedure 2013

1. The Respondent's name is corrected to Leeds Warehousing Solutions Ltd.
2. The Claimant's claim of pregnancy discrimination is well-founded and succeeds. The Respondent treated her unfavourably by dismissing her because of her pregnancy.
3. The Respondent shall pay the Claimant the following by way of compensation:
 - a. **£4060.06** in respect of net losses to date;
 - b. **£37.48** interest on the net losses to date;
 - c. **£3740.36** in respect of future losses;
 - d. **£6000** in respect of injury to feelings; and
 - e. **£110.77** interest on the injury to feelings award.
4. The total sum payable is therefore **£13,948.67**.

REASONS

Introduction

1. This was a hearing pursuant to Rule 21 of the Employment Tribunal Rules of Procedure 2013. The Respondent has not presented a response. I have corrected the name of the Respondent to Leeds Warehousing Solutions Ltd. I am satisfied pursuant to Rule 91 that the claim form was delivered to the Respondent at what the Claimant tells me is its Head Office in Hunslet.

2. The Claimant represented herself and gave evidence to me. The Respondent did not attend. The Claimant's claim is that she was dismissed because of her pregnancy. The Respondent has not presented a response and I explained to the Claimant that I would issue a judgment upholding that claim pursuant to Rule 21. She gave evidence about her losses and injury to feelings and I made the following findings of fact about that.

The Facts

3. The Claimant was employed by the Respondent as an Office Administrator. Her contracted hours of work were 50 hours per week but she in fact worked from 7.00am to 7.00pm five days per week, i.e. 60 hours per week. Her rate of pay was £8.50 per hour, so her gross weekly pay was £510. The net equivalent is £409.62.
4. The Claimant was dismissed on 5 December 2017. Unfortunately she lost her baby in late December 2017. She initially tried to mitigate her losses by starting a small cleaning business in January 2018. She spent £70 on materials and business cards, and earned £250. However, she was then successful in obtaining a job working for the NHS. She started on 19 February 2018 on a salary of £21,000. Her net weekly pay is £337.69. Although the role is currently only until April, she has been told that she is highly likely to be kept on after that and I find that she will remain in that role. She will be able to move up the pay scale and apply for promotions. She hopes to be on a similar level of pay to that she was on with the Respondent within 12 months.
5. The Claimant told me, and I accept, that she was anxious about her pregnancy. She had previously suffered miscarriages. On 5 December 2017 she was bleeding and went to the hospital for a scan. That was very stressful. Those were the circumstances in which she was dismissed. She was very anxious about how she would get another job while pregnant. She was worried about money and about how stress would affect her baby. She went to the doctor, who tried to reassure her that the baby would not be affected by her stress, but that did not help. She was finding it difficult to eat or sleep. As I have indicated, she sadly lost the baby later that month. She was obviously upset about that. She became very down, to the extent of trying to take her own life, and she is now on anti-depressant medication. She accepts that the loss of her baby was part of the cause, but says that the loss of her job was also part of it. She was worried about her finances. Her credit rating was affected and she was in rent arrears and was threatened with eviction. She felt that her confidence had been affected. Now that she has a new job, things are improving. She has reached an agreement to pay off her rent arrears and her confidence is improving.

Compensation for financial losses and injury to feelings

6. It is twelve weeks since the Claimant's dismissal. She would have earned 12 x £409.62 (take home) if she had not been dismissed. Instead she has earned £250 from cleaning, but she spent £70 to achieve that. Her net earnings from cleaning were therefore £180. In addition, she has earned 2 x £337.69 (take home) in her new job. Her losses to date are therefore £4915.44 – (£180 + £675.38) = £4060.06.
7. Interest is calculated on that in accordance with the Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996 SI 1996/2803. The rate of interest is 8% and it is awarded for six weeks (the mid-point between the date of dismissal and today's date).

8. The Claimant earns less in her new job than her old one, so she has an ongoing weekly loss. She hopes to increase her earnings to the old level in twelve months and that is an appropriate period to award compensation for future losses. Her future losses are $\pounds 52 \times (\pounds 409.62 - \pounds 337.69) = \pounds 3740.36$.

9. Awards for injury to feelings are compensatory, not punitive. The aim is to compensate the Claimant fully for the proven, unlawful discrimination for which the Respondent is liable. The crucial consideration is the effect of the unlawful discrimination on the Claimant. The Tribunal will have regard to the well-established bands of compensation for injury to feelings: see *Vento v Chief Constable of West Yorkshire Police (No 2)* [2003] IRLR 102, as upgraded in a number of cases, most recently *De Souza v Vinci Construction (UK) Ltd* [2017] EWCA Civ 879. The recent Presidential Guidance on Employment Tribunal Awards for Injury to Feelings provides that the applicable bands for compensation are now:

Lower band (less serious cases):	£800 - £8,400
Middle band (cases that do not merit an award in the upper band)	£8,400-£25,200
Upper band (the most serious cases):	£25,200 - £42,000

10. I find that the appropriate award in this case is £6000. The Claimant had not worked for the Respondent for very long, and this was a one-off act of discrimination. However, it resulted in the loss of her job, and caused her particular anxiety because she was pregnant and worried both about the impact on her baby and also about how she would find another job when pregnant. She was able to start a small business in January. She obviously suffered a real low a few weeks ago. Part of that was because of losing her job, but part was of course the loss of her baby. It is only her injury to feelings because of losing her job that should be covered by her compensation. She started medication and was well enough to start her new job a couple of weeks ago and is feeling more confident and less anxious now. Taking all those factors into account, I find that the appropriate band is the bottom band, but that the Claimant's level of injured feelings lies towards the upper part. That gives rise to my finding that £6000 is the appropriate sum.

11. Interest is payable on that sum at the rate of 8% for the full period of 12 weeks since the Claimant's dismissal.

Employment Judge Davies
2 March 2018