



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Miss Nickeila East

-v-

MCK Recruitment Limited

JUDGMENT

1. The respondent's name is amended to add "Limited".
2. The respondent contravened part 5 of the Equality Act 2010 and the claimant was subjected to discrimination in contravention of s.18 Equality Act 2010. The claimant is awarded :-

Injury to feelings	£1,000.00
Interest (30 July 2021 to 16 February 2022 - 201 days)	<u>£44.00</u>
Total	£1,044.00
3. The respondent made an unlawful deduction from the claimant's wages pursuant to Part II of the Employment Rights Act 1996. The respondent is ordered to pay **£948.15 (gross)** to the claimant in respect of the unlawful deduction **from which credit needs to be given for the £850.00 received.**
4. The respondent was in breach of its duty to the claimant pursuant to Part I Employment Rights Act 1996. The respondent is ordered to pay an additional 2 weeks pay of **£1,036.00 (gross)** to the claimant pursuant to Section 38 of the Employment Act 2002.

REASONS

1. This claim is a claim for pregnancy/maternity discrimination and wages that was presented on 20 September 2021 following early conciliation between 23 August and 17 September 2021.
2. It relates to a period between 5 May and 16 July 2021 when the claimant claims she was engaged as by the respondent to work as a "housing solutions officer" on behalf of one for the respondent's clients, Sandwell MBC.
3. In her claim form the claimant states she was not paid her wages for July when they fell due. She had expected to be paid £948.15. After various attempts to chase payment she received £500 on or around 2 August, a further £350 on 6 August. Despite further attempts to chase payment she has not received a payslip or the additional sums due.
4. As to the claim for pregnancy discrimination in her claim form ¶8.2 the claimant said this

"I asked Mildred again when I would be receiving my outstanding wages and also wage slip as I had not received one. She responded back that she was out of the office and will send my payslip whenever she also added that she had paid me what she could for that day (Friday 6th August

2021) and that she had others that work hard and stay in their contract that deserved to be prioritised over me. I had left my job due to my pregnancy symptoms.

I'm now 9 months pregnant expecting my baby any day now and the stress has caused me to see my midwife and doctor at the QE hospital twice a week since this whole ordeal. This has affected me negatively and has put myself and my family in hardship as this is the second time MCK Recruitment have delayed my pay."

5. That to me appears to be an assertion that the respondent is in financial difficulties and has prioritised employees who have not taken maternity leave over the claimant who has.
6. This hearing was listed on receipt of the claim to address case management. It was listed by telephone and the claimant has attended. The respondent did not.
7. The claim and associated papers were served on the respondent at
*"Woodbridge Crescent, Headingley,
Woodbridge Crescent, Headingley,
Leeds, West Yorkshire,
Headingley,
LS6 3LN."*
8. Thus, the first line of the address was duplicated, the postal area, Headingley was repeated above the post code and no house number was given.
9. No response was received by the date one should have been lodged, 21 October 2021. A notice to that effect stating also that a judgment might be entered and that the respondent could only participate going forward to the extent permitted by a judge was sent on 13 December 2021. At the same time the claimant was also asked to provide quantification of her claim and asked to provide clarification of the respondent's name as it appeared to be a trading name.
10. The claimant responded on 20 December 2021 providing details of her claim. She stated her weekly wage before tax was £1,722.35 (after tax £1,476.51), that she did not accumulate any holidays and did not receive a payslip with the unpaid wages. She stated for the period of July/August she worked 133.00 hours at a rate of £12.95 per hour and was not paid her wages. She also confirmed the full name of the respondent is MCK Recruitment Ltd and this company is managed by Mildred Kido.
11. There are two companies with the name MCK recruitment registered at Companies House.
 - a) The first company number 06302989 traded from 93 Grantley Street, Grantham, Lincolnshire, NG31 6BN. It was incorporated on 5 July 2007 and dissolved on 5 July 2011. Its sole director was Andrius Mockus and its company secretary Erika Grybyte. I am satisfied that has no relationship to the respondent to this claim.
 - b) The second has company number 11609897 and trades from 12 Woodbridge Crescent Woodbridge Crescent, Leeds, United Kingdom, LS6 3LN. It was incorporated on 8 October 2018. Whilst it continues to

trade a confirmation statement is overdue. Its sole officer is Mildred Chriselda Kido. It appears that is the appropriate respondent.

12. The respondent's name shall be therefore amended to reflect the fact it is a limited company.
13. Despite the respondent's non attendance or involvement in this claim I am satisfied that the interests of justice require that there be no further delay and I should consider making a judgment today, notice to that effect already having been given, bearing in mind the alleged hardship this has caused to the claimant, that the respondent appears to be in financial difficulties, has failed to comply with companies house reporting requirements and no correspondence sent to the respondent has been returned to the Tribunal. On that last point, I am satisfied the claim would in the ordinary course of post have come to the attention of the respondent because the papers would have been returned to the Tribunal if not.
14. I heard from the claimant that her baby was born on 11 October 2021, 1½ weeks beyond her due date. She told me she had to stop working on 9 July because she had been admitted to hospital due to problems with the pregnancy and as a result she was dismissed.
15. I accept the claimant's account of those matters and find the claimant was pregnant at the time she was not paid her wages on 30 July 2021, that was accordingly within the protected period and I also accept she was treated unfavourably because of her pregnancy by virtue of others being paid in preference to her and because she was dismissed because she had had to go on sick leave due to her pregnancy.
16. Given the non involvement of the respondent and those findings the respondent has not discharged the burden that has passed to it to show that did not occur as alleged or that the reason for the claimant's treatment was in no sense connected to her pregnancy.
17. The claimant claims injury to feelings of £1,000. I consider that is an appropriate amount to compensate her for her injuries to feelings arising from that discrimination, the minimum award at the relevant time being £900.
18. I accept the claimant has not been provided with an itemised pay statement (payslip) in accordance with s. 8 Employment Rights Act 1996 (ERA) and I have thus determined what particulars should have been provided pursuant to ss.11 & 12 ERA.
19. She told me she worked 40 hours a week at £12.95 per hour and worked 7 days in July. She explained the sum referred to at (3) was the sum the respondent reported she had been paid to Universal Credit. The £948.15 gross equates to approx. 9 days pay at £12.95 per hour. Given the claimant expected to be paid on 30 July her July payment may have included some hours worked in June. In her claim form she also referred to her engagement finishing on 16 July (a week later). I accept therefore that in the absence of a pay statement the sum of £948.15 gross equates to at least the sums the claimant is due for July. She is awarded that amount less statutory deductions and any sums received (see (3)).
20. No evidence has been provided of any financial loss sustained by the claimant that is attributable to the matters complained of such that I can make an award pursuant to s.24(2) ERA.

21. No holiday pay claim was expressly brought within the claim form and nor can I be satisfied that the claimant's pay (which exceeds the national minimum wage by some margin) did not include rolled up holiday pay. That is because the claimant tells me she did not receive particulars of her employment. That failure also contributed to her difficulty calculating what sums were due to her and when.
22. Pursuant to s.38 Employment Act 2002 where I make an award and no particulars of employment have been provided pursuant to Part I ERA I must increase the award. I do not consider it is just and equitable to make an award of 4 weeks pay or that there are exceptional circumstances so that such an increase would be unjust and inequitable. I therefore award 2 weeks pay calculated at 40 hours per week at £12.95/hour.

Signed electronically by me

Employment Judge Perry

Dated: 16 February 2022