



EMPLOYMENT TRIBUNALS
London Central Region

Heard by CVP on 21/4/2022

Claimant: Ms S Parkins

Respondents: 1. Barnet, Enfield and Haringey Mental Health NHS Trust
2. Ms A Smith
3. HM Prison and Probation Services

Before: Employment Judge Mr J S Burns

Representation

Claimant: In person
Respondents: 1 and 2 Mr A Smalls (Counsel)
3 No appearance

JUDGMENT

1. The Third Respondent is liable for racial harassment and discrimination against the Claimant.
2. The Third Respondent must pay the Claimant damages for the injury to her feelings in the sum of £5000 by 5/5/22.

REASONS

1. I was referred to documents in two bundles, one from R1 and R2 and one from C, and I heard oral submissions.
2. R2 who is employed by R1, while drunk at a works party in a pub, on 18/6/21 made unwanted comments with a racial connotation about the Claimant's skin colour and hair. The Claimant who is employed by R3 at Wormwood Scrubs prison, complained about this to her manager Mr D Ceglowski, (a Deputy Governor and an employee of R3) who in turn spoke to Eamon Walsh, (an employee of R1 and R2's manager). The result of the complaint was that R2 sent a written apology to the Claimant and R2 was recommended for managerial supervision by her manager, but no formal disciplinary process was taken against R2 and the Claimant was required to continue working alongside R2. The Claimant sent an email complaining about the situation to her managers within R3 and to Mr Walsh, but did not receive any satisfactory response.
3. C applied for ACAS conciliation against R1 and R2 and on 10/10/21 presented her ET1 against them, but after they raised the defence that they were not the Claimant's employers, EJ Goodman, at a PH on 27/1/22, ordered that R3 be joined as Third Respondent under Rule 34.
4. A tribunal officer sent a suitable letter with a blank ET3 form and a copy of the pleadings and a formal Notice of Claim to R3 at the Wormwood Scrubs prison address on 1/2/2022. These informed R3 that a completed response form from it was required and must be received by the tribunal office by 1/3/22 failing which a judgment may be entered against R3; and also enclosed a copy of the CMO dated 27/1/22 which referred to the fact that an OPH was listed for today (21/4/22) to further consider the matter, and deal with applications by R1 and R2.
5. The Claimant told me today that shortly after the hearing on 27/1/22 she told Mr Ceglowski that R3 had been joined into the tribunal proceedings and that there would be a further hearing on 21/4/22; and that at least two weeks ago (ie in early April 2022) she was told by Mr Ceglowski that the paperwork from the tribunal in relation to her

claim had been received at the prison and sent on to the Government Legal Department for action. She also reminded Mr Ceglowski yesterday (20/4/22) that the hearing was going ahead today.

6. I am satisfied that R3 has been served but has failed to file a response in time or at all and that it is appropriate to enter judgment against R3 under Rule 21.
7. The remedy claimed by the Claimant is damages for injury to feelings only. She did not suggest any particular sum and said she was happy to leave the matter of quantum in my hands. I have read her bundle, seen the medical documents and considered what she has said and written about the matters complained of. I find that the main subject of complaint was an unpleasant but isolated incident in respect of which the Claimant received a written apology from R2, and which had no financial consequences or long-term effect. I find that the matter falls into the lower Vento band and that £5000 is the proper measure of damages. The Claimant confirmed that she was content to accept that as a full remedy for the matter.
8. By consent I have adjourned the claims against R1 and R2 on the basis set out in the separate Case Management Order.

J S Burns Employment Judge
London Central
21/4/2022
For Secretary of the Tribunals
Date sent to parties -21/04/2022
