



Tribunal awarded £118,000 to an employee who had been employed for 8 days!!

The Employment Equality (Sexual Orientation) Regulations were introduced in 2003 to prohibit discrimination on the grounds of an individual's sexual orientation. The legislation reflects strongly the existing anti-discrimination laws and has resulted in a plethora of cases. Most notably a recent decision by an Employment Tribunal in Glasgow where an employer was ordered to pay £118,000.00 by way of compensation to a former employee.

Mr Ditton, who is a homosexual, obtained the role of area sales manager with CP Publishing in June 2005. His role involved selling advertising space and managing a team of two sales staff. His salary was to be around £85,000 per annum, depending on achieved sales.

Almost immediately after stating employment one of the directors of the Company made offensive comments about his sexual orientation, using rhyming slang to suggest he was "bent" and called him a "wee poof". He also undermined him in front of staff and often adopted an aggressive and sarcastic tone towards him. On the 6th July 2005 after only two days of carrying out his duties following an initial period of training, Mr Ditton was telephoned by the recruitment agent who had arranged his interview with the company and told that he was being dismissed because the publishing company thought he was not "psychologically balanced". Mr Ditton tried to find out if he would receive wages for the eight days that he had worked but was unsuccessful. As a result of his dismissal, Mr Ditton suffered depression and low self-esteem and his alcohol consumption increased.

In July and September 2005, Mr Ditton sent grievances to the Company but it failed to follow the statutory procedures and arrange a meeting as required by law. Mr Ditton issued proceedings for unfair dismissal on the grounds of sexual orientation, harassment on the grounds of sexual orientation, unlawful deduction from wages and breach of contract for the Company's failure to reimburse him for expenses. The Company was prevented from taking part in the proceedings as it did not enter a response to the claim.

The Tribunal upheld all his complaints stating that "it was in no doubt that Mr Ditton's sexual orientation had been the reason for his treatment at the hands of CP Publishing". The reason it had put forward for his dismissal that he was not "psychologically balanced" was unsupported by the evidence and inherently humiliating. The Tribunal found that the employer's attitude towards Mr Ditton had "been one of apparent malice and contempt" which resulted in him suffering from depression for 18 months, impacting on his ability to work and his social life. The Tribunal awarded a just over £118,000 with £26,000 of this amount for failure to comply with the statutory procedures in dismissing him and failure to follow the statutory procedures in relation to the grievance. In considering what uplift to

award the Tribunal took into consideration the fact that Mr Ditton had only been employed for 8 days.

This is clearly a lesson in "how not to treat an employee" and the Company will, no doubt, appreciate how costly this lesson has been. Employer's should always seek appropriate advice prior to taking action to ensure that they comply with their legal obligations and avoid the expense of tribunal proceedings.

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