

22/10/2009

PRESS RELEASE

Success for Malaysian Man in Tribunal Race Case

An Industrial Tribunal has upheld complaints, brought by a Malaysian man with the support of the Equality Commission, that he was subjected to race discrimination, harassment on grounds of race, and unfairly dismissed



Mr Terence Lesslar, aged 49, brought the complaints against his ex-employers, Sycadex Ltd., a Dunmurry firm. The Tribunal has found that Mr. Lesslar was subjected to less favourable treatment on the grounds of his race, that the discrimination was a continuing act and that it culminated in his dismissal. The Tribunal awarded him a total of £36,319 for loss of income and pension entitlement, future loss, and damages.

Mr Lesslar was employed as Market Analyst/SGN Partner Manager. Following a dispute over annual leave in August 2007 the Managing Director, Mr. Allen Erskine, after a disciplinary procedure, wrote to Mr. Lesslar advising him he was dismissed for gross misconduct. An appeal by Mr. Lesslar to the Chairman of the Company resulted in his reinstatement.

Further disciplinary action was taken against Mr. Lesslar, however, and he raised grievances with the Chairman of the Company alleging race discrimination and victimisation. Although a written warning which had been issued was struck from his record, his complaints of race discrimination were not upheld. When, in April 2008, Mr.

Lesslar was made redundant he unsuccessfully appealed that decision, again alleging racial discrimination.

All of these matters were considered at a seven day Industrial Tribunal hearing earlier this year and in its decision the tribunal states that Mr. Lesslar (the claimant) "gave cogent, credible and consistent evidence to the tribunal throughout the hearing" and stated that, "where there was a conflict of evidence, the tribunal preferred the evidence of the claimant". In regard to one incident the Tribunal found as a fact that, at a meeting on 14 September 2007, Mr. Erskine "said that Mr. Lesslar had played the Malaysian card well and accompanied this comment with a mock hand clapping gesture."

The Tribunal concluded that 'acts of discrimination were carried out in the course of employment' and it found that Sycadex Ltd were liable for those acts of discrimination. They further found that Allen Erskine, the managing director of the firm 'was responsible for a sustained campaign of discrimination against the claimant. The Tribunal concludes that Mr. Erskine is also liable for the acts of race discrimination'. Accordingly, the tribunal decision states that the awards for compensation are made against the first named Respondent (Sycadex Ltd) and the second named Respondent (Mr. Allen Erskine). The tribunal made no finding of liability against a third named respondent.

Mr Lesslar said, "I am pleased that the tribunal has found in my favour and stated clearly that I was subjected to race discrimination. That decision and the award made shows that such discrimination is completely unacceptable and can be challenged, so I would encourage people who are suffering such treatment to remember that the law is there to protect them. I felt that for this to go unchallenged would tarnish my reputation and my good work record. Although this was a difficult and stressful time for me, I was extremely grateful for the support I have had from the Equality Commission."

Eileen Lavery, Head of Enforcement at the Equality Commission, said, "This is an important result, and should flag up to employers the absolute requirement to make sure that their company and their staff do not discriminate. They must make sure that they are even-handed and fair in the application of all their human resource, discipline and grievance, and redundancy policies."

The Tribunal found in this case that 'no relevant policies relating to equal opportunities were put forward by the company, no training in equal opportunities was provided, no monitoring exercise was put in place and indeed complaints of discrimination were not investigated properly in the tribunal's view, particularly the claimant's allegations of racial discrimination in relation to the redundancy process'.

"The Equality Commission offers a large range of advice and guidance services to employers giving practical help on good practice and compliance with the law," Eileen Lavery said. "We can help employers ensure that their working practices and their policies are not discriminatory and that these policies are applied fairly, by all staff to all employees."

ENDS

For more information contact Christina Martin, Communications Officer, Equality Commission on 028 9050 0666

To view the Industrial Tribunal decision, [click here](#).