

## **Michael Clarke v Eamon McCusker and Eugene Kielt trading as AM:PM**

Sexual orientation discrimination proceedings brought in the Industrial Tribunal which settled on 1 February 2016.

### **Summary**

The Claimant is gay. He was employed by the Respondent from late August 2014 until January 2015.

The Claimant alleged that he was subjected to harassment and less favourable treatment, culminating in his constructive dismissal.

The Claimant alleged that another employee subjected him to homophobic comments, spoke to him in an effeminate voice and mocked his sexual orientation through the use of stereotypical hand/wrist gestures. The Claimant felt that he had no choice other to resign from his employment.

The Claimant alleged that this employee referred to him as a “f\*\*\*\*\*g faggot” in January 2015. The Claimant alleged that following this incident he was sent home early and not permitted to do his shift. The Claimant further alleged that on the 23 January 2015 he was not allowed to commence his shift following an exchange of words about clocking in. The Claimant tendered his resignation by email and raised a number of complaints to Human Resources. The Claimant met with Human Resources on the 3 February 2015 but was not sent a copy of the outcome of their investigation into his complaint.

The Respondent with no admission of liability agreed to pay the Claimant £3,000. The Respondent affirmed its commitment to the principle of equality of opportunity and to ensuring that its practices and procedures comply in all respects with its obligations under national and European Equality law and the relevant Codes of Practice and Guidance. The Respondent also reaffirmed its commitment to safeguarding the rights of all its staff and customers, irrespective of gender, religious belief, political opinion, race, disability, age and sexual orientation. The Respondent agreed to liaise with the Equality Commission to review its policies and procedures. The Respondent agreed to implement such reasonable recommendations as the Commission may make as far as practicably possible and within a reasonable timescale. The Respondent agreed to provide the Claimant with a written reference on headed notepaper.