

Woman v Top Hat Bingo Ltd and Others

Sexual orientation proceedings brought in the Industrial Tribunal which settled on 18 January 2016 and 5 May 2016.

The Claimant was referred to the Equality Commission by Belfast Law Centre.

Summary

The Claimant was employed by the First Respondent from November 2003 until June 2015. The Claimant's son is gay and she believes that other employees knew this fact.

The Claimant alleged that in March 2015 a conversation took place during lunch time regarding Jamaica. The Claimant said that she had watched a television programme about Jamaica which had reported very negative treatment of gay people. The Claimant alleged that another employee, the Third Respondent, commented "it's good enough for them" and that "they should all live in the sewers." The Claimant alleged that she responded that the employee knew her son was gay and she found his remarks very offensive. The Claimant alleged that the employee commented that he found it offensive that she talked about "them".

The Claimant alleged that she immediately informed the Chief Executive of these comments and he agreed that the comments were offensive and unacceptable and promised to speak to the employee. Later that day the Claimant alleged that the Chief Executive told her that the employee would be apologising to her. The Claimant approached the employee and asked him if he understood how offensive his remarks were but he did not apologise. She alleged that he smirked at her and shrugged his shoulders and walked away.

Immediately following this incident the employee was on annual leave. The Claimant was apprehensive about his return to work and spoke with the Chief Executive again. She alleged that she told the Chief Executive that she was unhappy about how he had dealt with the incident. The Claimant alleged that the Chief Executive was very angry with her and was unhappy that she wanted the matter pursued. She alleged that he told her she would ruin things for everyone in the office and she would need to be careful.

A meeting as due to take place on the 24 March 2015 to discuss the matter but the employee who had made the comments commenced sick leave. However, the Claimant later discovered that the employee was working in the office at evening times. The Claimant spoke with the Chief Executive about this and alleged that she was advised that the employee had made serious allegations against her and she would be facing disciplinary action.

In early April 2015 all staff were issued with a letter stating the new working practices were going to be introduced due to allegations of disagreements and unprofessional behaviour at the board room table. The letter advised that paid sick leave would be

removed and there were changes to the rules about booking annual leave. The Claimant believed that these changes were introduced because of her complaint against the employee.

The Claimant alleged that on the 20 April 2015 the Chief Executive advised her that if she was prepared to drop her allegations against the employee then the disciplinary action against her would go no further. The Claimant refused to withdraw her allegations as she wished these to be properly investigated and she felt that she had been treated very badly since she made her complaint.

The Claimant became aware that the employee was subjected to a disciplinary hearing on the 18 May 2015 and was given a final written warning. The Claimant was not involved in his disciplinary hearing.

The Claimant was given a letter on the 25 May 2015 inviting her to attend a disciplinary hearing the following day and that she was charged with gross misconduct and the possible outcome was her dismissal. The letter advising her of the disciplinary meeting enclosed a statement in which it was alleged another manager had made a very graphic homophobic comment to the Claimant about her son and she had not been offended. The Claimant was extremely shocked and distressed about this and vehemently denied that the manager made this comment.

The Claimant commenced sick leave. The Chief Executive wrote to her indicating that he had taken the view that she had resigned from her employment. The Claimant emailed the Chief Executive on the 31 May 2015 and asked him to deal with her complaints.

The Claimant resigned from her employment on the 4 June 2015. She believed that she had been harassed and victimised and that all trust and confidence between her and her employer was at an end.

Without admission of liability on the part of all Respondents, the First Named Respondent agreed to pay to the Claimant the sum of £12,500. The First Named Respondent agreed to provide the Claimant a reference on headed note paper. The First Named Respondent further agreed that should direct contact be made by perspective employers, only information in accordance with the reference shall be provided. The Respondents reaffirmed their commitment to the principle of equality of opportunity in employment and to ensuring that their practices and procedures comply in all respects with the provisions of the Sex Discrimination (NI) Order 1976, as amended, and the Employment Equality (Sexual Orientation) Regulations (NI) 2003 and the relevant Codes of Practice. The Respondents undertook to meet with Employment Law Consultancy to review their policies, practices and procedures to ensure that they were effective and conform with the requirements of the Sex Discrimination (NI) Order 1976, as amended, and the Employment Equality (Sexual Orientation) Regulations (NI) 2003 and the relevant Codes of Practice and will take such steps to implement any reasonable recommendations that Employment Law Consultancy may make,

concerning those policies. The Third Respondent entered into a separate conciliated agreement with the Claimant through the LRA. He agreed that it was not his intention to cause upset or offence to the Claimant. This Respondent accepted that the Claimant was upset and apologized for that.