Colleen Ann Magill v Northern Ireland Housing Executive

Sex discrimination proceedings brought in the Industrial Tribunal which settled on 25 October 2016.

Summary

The Claimant was employed by the Northern Ireland Housing Executive (NIHE) from October 2014 until 8 April 2016 as a trainee auditor.

The Claimant became pregnant in 2014 and was due to have her baby in May 2015. Upon returning from maternity leave, the Claimant was informed that she was entitled to carry over 14 days annual leave into the following year. The calculation was based on the Respondent’s applicable policy found in paragraph 3.4 of its ‘Annual Leave Entitlement’ Policy which states:

‘Employees who have been unable to take their annual leave entitlement due to sickness absence or maternity leave may carry forward more than 10 days in the following leave year. In these circumstances, carry over will be limited to the statutory leave entitlement of 28 days per annum.’

The Claimant believed that she should in fact have been entitled to carry over 19 days annual leave upon her return for maternity leave. She has calculated this in the same way as the Respondent except that she has taken as her starting point 33 days annual leave as provided for in her contract of employment and not the statutory leave entitlement of 28 days. She argued that in fact she was owed an additional 5 days’ leave.

The Claimant believed that the Respondent’s policy of only permitting employees on maternity leave to accrue a maximum of 28 days annual leave amounted to pregnancy-related sex discrimination, since had she not been on maternity leave, she would have been entitled to 33 days annual leave.

The Respondent agreed to pay to the Claimant £2,500 to compensate her for the injury to feelings and financial loss sustained by her by reason of the loss of 5 days of her annual leave entitlement in relation to her full contractual allowance while she was on maternity leave and notice pay. The Respondent reaffirms its commitment to the principle of equality of opportunity in employment and to ensuring that its practices and procedures comply in all respects with the provisions of Sex Discrimination (NI) Order 1976 as amended and the relevant Codes of Practice. The payment is made by the Respondent and accepted by the Claimant without any admission by the Respondent of any liability or that the Claimant was discriminated against on grounds of her sex or by exercising her right of maternity leave, and nothing in these terms of settlement is or shall be interpreted as an admission of liability on the part of the Respondent. For the avoidance of doubt the Respondent denied any liability.

The Respondent undertook to meet with the Equality Commission to review its policies, practices and procedures in relation to annual leave carry over for women on pregnancy related or maternity absence to ensure that they are effective and conform with the requirements of the Sex Discrimination (NI) Order 1976 as amended and the
relevant Codes of Practice and will take steps to implement any reasonable
recommendations the Commission may make, including any regarding training of staff
in the implementation of those policies.