

***View from the Chair; Business Newsletter; Tuesday 19 November 2019
by Dr Michael Wardlow, Chief Commissioner, Equality Commission NI***

Handling race discrimination in the workplace

Every week the Equality Commission gets an average of eight calls about racial discrimination, around 10% of all contacts made.

One recent case was that involving Damian Anysz, a young Polish man who came here six years ago to live and work. This month, he won his race discrimination case at the Industrial Tribunal. In only his second job in Northern Ireland, he experienced behaviour from older, longer-serving local staff that most of us would find unacceptable – and, sadly, his employer reacted as though he, Damian, was the problem.

Briefly, Damian was working as a commis chef at Sizzlers in Magherafelt, and enjoyed the job for the first six months or so. From then until he left the company in July 2018, Damian was subjected to demeaning and undermining abuse and a clear whispering campaign by one member of staff to isolate him from his colleagues. A series of other incidents in the kitchen and the atmosphere in the workplace caused genuine distress to Damian and he eventually resigned.

The Industrial Tribunal was clear about the discrimination in this case. The panel said the situation was permitted and compounded by the employer, and that by failing to address and resolve the original misconduct of the staff member, Sizzlers had enabled her to repeat and escalate her treatment of Damian. The Tribunal said that the employer's failure to act 'was not an omission, but part of a deliberate course of action, resulting in the behaviour continuing, albeit in a less overt form'. In the judgement, it was made clear that a failing business and a lack of experience in dealing with such matters cannot excuse the employer's failure to stop such behaviour and awarded £14,000 for injury to feelings.

There was a further award of £1,204.88 for the employer's failure to provide Damian with a written statement of his terms and conditions. This was in spite of his frequent requests.

What lessons can we draw from this case? For employers, it is important to be clear about what behaviour you expect of workers. The easiest way of doing this is to have a clear policy and ensure that every member of staff understands what's acceptable at work and what is not.

Also, if a complaint is raised, you should treat it seriously. Be fair and open in examining and investigating, and keep all parties informed of what is going on. The Tribunal in this case concluded that the employer wanted to keep its long-standing

employee happy more than they wished to do right by Damian.

And finally, if you as an employer are in any doubt about what you should be doing, or just need to know where to start, please get in touch with our Advice and Compliance team for advice and information that will help to keep you the right side of the law: 028 90 500 600 or edenquiries@equalityni.org