

**16/12/2009**

## **PRESS RELEASE**

### **Sex Discrimination Awards In Maternity Leave Cases**

Two women who faced discrimination after taking maternity leave have been successful in cases brought to the Industrial Tribunal with the assistance of the Equality Commission.



Judith Hitch, a kennel hand, was awarded £8,624 by a Tribunal which found that she was discriminated against by her employer Karl Smyth, on the basis of her sex. It also found that she was unfairly dismissed.

Richenda McAleenan, a Credit Loans Officer, was awarded £8,808 by a Tribunal which found that she was unlawfully discriminated against by Ballynahinch Credit Union in being treated less favourably on the ground of exercising a statutory right to maternity leave.

Judith Hitch was employed as a kennel hand in Karl Smyth's veterinary clinic and kennels. Her son was born in January 2008 and she attended a return to work interview with the Practice Manager, in August 2008. She had written asking for a change in hours to fit in with child minding arrangements, but it became clear to her at the meeting that she was only going to be offered work at hours which were unsuitable for her. Ms. Hitch became upset and left the meeting. At that time the Practice Manager assumed that Ms Hitch had resigned and the practice subsequently sent her P45 to her in the post.

In its decision the Industrial Tribunal found that Mr Smyth had made no real effort to bring Ms. Hitch back to work after her maternity leave and stated, “*The respondent should have contacted the claimant, preferably in writing, explaining her right to return to work in her previous job and suggesting another discussion to try and resolve the working times.*” The Tribunal awarded compensation of £8,624 to Ms Hitch for sex discrimination and unfair dismissal.

Richenda McAleenan has worked for Ballynahinch Credit Union since 1996 and was employed as a Credit Loans Officer. When her manager was absent, as the longest-serving employee, she would normally “act up” at an increased salary. Ms. McAleenan returned to work after maternity leave on Friday 6 May 2008 and, in the absence of her manager, took on the acting-up position. On Monday 9 May the then Chairman of the Board of Directors, Janet Clarke, visited the premises and told Ms. McAleenan she could not act up as she was just back from maternity leave and would not know what she was doing. The Tribunal found that there was an implied term in her contract affording her the right to act up and that therefore she was, in effect, no longer allowed to return to the job in which she was employed before her absence. The Tribunal found that the Credit Union were unable to provide any credible explanation for the treatment of Ms. McAleenan on her return to work. They ruled that they had unlawfully discriminated against her because she exercised her right to maternity leave and awarded Ms. McAleenan £8,808.

Anne McKernan, Casework Director for the Equality Commission, said that the cases underlined the importance for all employers of ensuring they are aware of and follow the pregnancy and maternity requirements of the Sex Discrimination Order.

“Women returning to work after the birth of a baby, with responsibility for the upbringing of their child, have rights under Sex Discrimination and Employment Rights laws which cannot be set aside,” she said. “Parenthood and family are essential elements in our society and to facilitate women to maintain, their position within the workforce we need to ensure that they can continue in work when pregnant and resume their jobs afterwards. “

“The Equality Commission provides advice and guidance to employers about regulations governing pregnancy and maternity, work/life balance and flexible working. Time taken out of work for pregnancy is only a small proportion of the total potential working life of any woman, and it is important that there is provision for this. Not only is it what the law requires, it is also the right thing to do.”

ENDS

Note to Editor

- Discrimination on grounds of gender remains one of the most common reasons for women to contact the Equality Commission. Since April this year over 600 women have made enquiries or complaints on gender issues, and 118 of these - 19% - were related to pregnancy/maternity, making it the most common cause of complaint among gender issues.