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PRESS RELEASE

Derry woman wins indirect sex discrimination case

A Derry woman who failed to get a job with an urban regeneration project has successfully claimed indirect sex discrimination and been awarded £11,677 by the Industrial Tribunals in Belfast in a case supported by the Equality Commission.



Nuala Crilly, 47, applied for a post as Neighbourhood Regeneration Officer with the Ballymagroarty Hazelbank Community Partnership in October 2010. Ms Crilly was not shortlisted for the post because she did not meet an essential criterion which read: ‘A 3rd level qualification in a relevant discipline with 2 years’ relevant experience in a community development capacity (paid) gained within the last 5 years’.

Ms Crilly had had a six-year break from paid work due to her child caring responsibilities, but during that time had extensive, high-level voluntary involvement in community development and neighbourhood regeneration. She was not shortlisted because her relevant paid experience was before the five-year period. This meant that she was denied the chance to outline at interview how her recent voluntary and other community activities made her a suitable candidate for the job.

Ms Crilly claimed indirect discrimination on grounds of her sex. Looking at the Labour Force statistics for January – March 2011, the Tribunal found a ‘*huge disparity between the sexes*’, from which the panel inferred that a ‘*vastly larger percentage*’ of women than men are away from work to look after family and home. The Tribunal found that there was ‘disproportionate adverse impact on females by the application of the five-year requirement within this criterion’.

The Community Partnership had argued that the criterion was justified in that it was necessary to recruit someone who would be able to take up the position immediately without the need for extensive training and with minimal supervision. The Tribunal, however, stated that they were “*not satisfied that the means chosen in this case were appropriate and necessary to achieve the legitimate aims stipulated.*”

The Tribunal found that there was particular disadvantage suffered by women and that Ms. Crilly herself had suffered personal disadvantage. It awarded her £5,000 for injury to feelings and, when her actual and future loss was taken into account, she received a sum of £11,677. In making the award the Tribunal took into account that the post was a six-month fixed term contract, that it was a one-off event and not a course of discriminatory conduct, and that it was an honest application of flawed criteria, with no motive to discriminate against women or the claimant.

Nuala Crilly said, “I felt that the criterion with its five-year requirement debarred me, and of course many other women, from applying for the post. I had a lot of involvement at a high-level in relevant areas of the voluntary sector during the period of my break from paid work, and that wasn’t considered. I believe it’s really important that employers don’t follow practices which exclude women from the recruitment process, even unconsciously. I hope that, by taking this case, I can help prevent this happening again to other women applicants.”

Anne McKernan, Head of Legal Services with the Equality Commission, said, “This case underlines the need for all employers to ensure that, when setting criteria for employment, they are not causing an unnecessary disadvantage to particular groups. The requirement in this case, for two years experience within the past five years, brought particular disadvantage to women, and the Tribunal considered that the reasons given for introducing it in this case did not justify that disadvantage. The Equality Commission can advise employers on good recruitment and selection policy and provides a range of services, including training, one to one advice and support.”

ENDS

Notes

The Tribunal awarded Ms Crilly £5,000 for injury to feelings, £8,920 for actual and future loss and interest to a total of £14,677, making a total of £14,677. As Ms Crilly subsequently obtained employment more quickly than had been expected, the future loss was reduced by £3,000, making a total award of £11,677