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PRESS RELEASE

Autism worker awarded £12,000 in sex discrimination case

A woman who suffered sexual harassment at work and had to leave her job as a result has been awarded £12,293 by an industrial tribunal in recognition of her losses and injury to feelings.

Noeleen McAleenon, who worked as a support worker for Autism Initiatives NI at its Glen Road premises in Belfast, took a case alleging sexual harassment and constructive dismissal with the support of the Equality Commission.

Ms. McAleenon and a male co-worker were the only two members of staff on a night shift from 20 January to 9 February 2012.

Ms. McAleenon alleged that he sexually harassed her, and the Tribunal in its decision has stated that “he agreed that he did, or might have done the following : tickling her feet; placing hands on her shoulders; hugging her; calling her ‘woman’ and telling her to cook as ‘that is woman’s work’; commenting on her appearance; leaning over her shoulder when she was working at the computer; poking her in the abdomen and ribs; asking about her sex life on one occasion; slapping her bottom on one occasion.”

Ms McAleenon said, “I felt violated, degraded and very stressed. I could not focus on my job as I was constantly on edge. It seemed clear to me that his behaviour and attitude, while it was unacceptable to me, was well known and indeed acceptable to other and more senior members of staff.”



Ms. McAleenon made it clear that she did not welcome this behaviour. Then, on 10 February 2012, Ms McAleenon was suspended from work after an allegation was made that she was sleeping on duty. This allegation was found to be unsubstantiated and she was told on 5 March that she could return to work.

When Ms McAleenon rang to arrange her return to work, she found that she would again be working alongside the same man. She then lodged a grievance with Autism Initiatives NI outlining incidents of harassment.

Autism Initiatives NI interviewed the harasser about the alleged incidents. He admitted that he had touched Ms McAleenon and made comments to her, and while he claimed that it was all done 'in fun' and banter with no malice, he admitted that some behaviour was inappropriate.

Autism Initiatives NI wrote to Ms McAleenon on 6 April saying he was going to be disciplined. The decision to issue the harasser with a 12-month written warning was made on 25 April but not notified to Ms McAleenon.

Unaware of the outcome of the disciplinary action, Ms McAleenon tendered her resignation on 30 April.

The Tribunal found there to be a fundamental breach of contract which was sufficiently serious to justify her in tendering her resignation. It stated that among its reasons for this finding were:

“the respondent did not suspend [the harasser] pending the investigatory and disciplinary process”;

“the lack of detailed and prompt communication with the claimant”;

“the claimant was in danger of going back into a situation where physical contact with sexual overtones was a real possibility”;

“it would have been a simple matter for managers from personnel to meet the claimant to talk through her anxieties”.

The Tribunal said, 'We find that the constructive dismissal was bound up with the harassment complaint and thus amounted to an act of sex discrimination and was unfair.'

Under Autism Initiatives NI's Dignity at Work policy, there was a duty on managers to intervene before problems escalated; and the Tribunal said 'This case illustrates the danger of an employer not being proactive in circumstances where members of staff are known to engage in physical contact; the invasion of someone's space; and to engage in banter which could be construed as sexual harassment.'

Noeleen McAleenon said that she was glad the whole experience was over. "It was very important to me to take this case, even though it was an extremely distressing experience," she said. "I ultimately lost my job because of this. I hope that other employers will watch and learn, so that no-one else has to go through the same thing as I did."

Anne McKernan, Director, Legal Services, the Equality Commission, said, "This case should remind all employers how important it is to ensure that their policies are actually being implemented; and that managers take action when they become aware of problems of harassment. As the Tribunal said in its decision, these policies must become part of the fabric of the organisation. In this case, the Tribunal notes that senior members of staff were on notice that the harasser engaged in jokes, banter and hugging which could have amounted to sexual harassment. The alarm bells did not ring and in these circumstances the fact that a policy existed was not enough to give Noeleen McAleenon the protection she needed and to which she was entitled."

The Commission continues to receive a large number of enquiries from those who believe they have been subjected to unlawful sex discrimination in the workplace.

[Industrial Tribunal decision](#) > (pdf 2.5MB)