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Decision in sexual harassment case against Morelli Ice Cream Limited & Remo Di Vito

Shauna McFarland from Coleraine, has won her sexual harassment case against her former employer Morelli Ice Cream Ltd and their employee, Mr Remo Di Vito. Shauna was awarded £20,000 by the Industrial Tribunal. Her case was supported by the Equality Commission for Northern Ireland.

Shauna experienced sexual harassment over a long period of time by Mr Di Vito, a supervisor, who is also a member of the extended family who own Morelli Ice Cream Limited. The Tribunal found his conduct was "...by any standard sleazy and sustained."

Shauna first raised a complaint of sexual harassment in September 2016. The Tribunal found that no investigation into this complaint was conducted although a verbal warning was issued. Shauna was not advised about this outcome and there was no follow up of even a basic enquiry as to her welfare. The Tribunal judgement criticised the extreme leniency of the penalty imposed and the "grudging minimal compliance" with the requirement to address her complaint.

The Tribunal accepted Shauna's evidence that the sexual harassment started again within weeks. She believed this was because her complaint was not taken seriously by her employer. The Tribunal concluded that the employer had not taken steps to fulfil its obligation to deal appropriately with this man's conduct, to ensure it stopped and that it would not be repeated. The Tribunal described his conduct as "probably and predictably facilitated" by the employer.

The Tribunal described a text message received by Shauna from this male supervisor in December 2017 as "obscene". In January 2018 following further unacceptable behaviour, Shauna submitted a formal letter of complaint alleging sexual harassment.

Morelli Ice Cream Ltd held an investigation into the complaint. The Tribunal was critical of the investigation, describing the conduct of the employer as aggressive and overtly dismissive towards Shauna. The Tribunal described the Managing Director's declaration that he was entitled to attend the investigation 'to defend the company' completely undermined any notion of independence.

As a result of Shauna's complaint, Mr Di Vito was given a final written warning. Shauna left her employment on a combination of sick leave and maternity leave and did not return.

Shauna McFarland said: “This was a very difficult time for me. I wish my complaints had been taken seriously and dealt with from the beginning. I had no choice but to challenge this horrible and disgusting behaviour. I hope by speaking out, it will help other women in similar situations to seek support and challenge it too. No woman should have to put up with this kind of behaviour at work.”

Mary Kitson, Senior Legal Officer, Equality Commission said: “Unfortunately, sexual harassment at work continues to be a reality for many women and this behaviour is simply not acceptable.

“It is important that employers, not only, have policies and procedures in place to protect women from harassment, but they must be actively implemented.

“Women, like Shauna, must feel protected from this type of behaviour and be confident that they can raise complaints without fear of being penalised and that any complaint will be dealt with effectively and in a timely and professional manner.

“Workplaces should be welcoming, inclusive and safe places for all employees and employers should come to the Commission for advice on putting in place effective equality policies and procedures”, concluded Ms Kitson.

Notes to Editor:

The original decision by the Industrial Tribunal was made in November 2019, publication was delayed as Shauna McFarland challenged an anonymity order made by the Tribunal Judgement. The order was removed by the Tribunal in May 2022.