



THE EMPLOYMENT TRIBUNAL

SITTING AT: LONDON SOUTH

BEFORE: EMPLOYMENT JUDGE TRUSCOTT QC

BETWEEN:

Ms J Czabrycka

Claimant

AND

**(1) Delikatesy Polonez Ltd,
(2) Ms Aneta Wiatrowska
(3) Mr Jacub Szymanski**

Respondent

ON: 6 February 2019

Appearances:

For the Claimant: Mrs M Inkin, lay representative

For the Respondent: no appearance or representation

JUDGMENT

1. As against the first respondent, the Judgment of the Tribunal is that the claimant is entitled to:

1	1 weeks' pay in lieu of notice of	£282.69
2.	1.24 weeks of paid holidays	£163.54

Total Award solely against the first respondent £446.23

2. As against the first, second and third respondents jointly and severally, the claimant is entitled to

1. Compensation for injury to feelings	£8600
2. Future loss of income	£10757.69
Total	£19357.69

REASONS

1 The respondents did not return an ET3.

2. The Tribunal was concerned to ascertain the validity of the claims against the second and third respondents who were the directors of the first respondent at the time and carried out the discriminatory acts complained of. The claimant was dismissed on 24 April 2018. She applied for early conciliation against the first respondent 20 July 2018 and lodged an ET1 against all three respondents on 17 September 2018. The claim against the first respondent is valid and in time. The claimant sought early conciliation against the second and third respondent on 4 September 2018. The Tribunal had doubt about the validity of the claims against the second and third respondents in the light of the date of the EC certificates.

3. The claimant applied to amend the claim to include the second and third respondents. The Tribunal considered what was said by the EAT in **Mist v. Derby Community NHS Trust** [2016] ICR 543 where view was expressed that where a claimant wishes to apply to amend an existing claim by adding a second respondent, there is no requirement to present a further EC form and obtain a further EC certificate. The reason for this is that, as held in **Science Warehouse Ltd v. Mills** [2016] IRLR 96 EAT, in relation to an application to amend to add a further claim, the claimant would at that stage no longer be a 'prospective claimant', and the decision whether or not to allow the amendment would be entirely a matter for the tribunal (see para 59).

4. It was explained that the claimant did not speak English (she had the aid of an interpreter at the hearing) and was confused by the requirements of the Rules. The Tribunal decided that it was appropriate to exercise its discretion in favour of the claimant and allow the amendment sought.

5. The Tribunal awarded the sums sought by the claimant as set out in her Schedule of Loss. At the hearing, she produced documentary support for her claims and evidence as to her injury to feelings and future loss.

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Employment Judge Truscott QC
Date: 6 February 2019