



EMPLOYMENT TRIBUNALS

Claimant: Mr S Mwangi
A
Respondent: Aston Hall Hotel Limited

On: 4, 5, 6, 7 and 8 January
2021

Before: Employment Judge D N Jones
Mr D Wilks OBE
Mr G Wareing

This hearing was conducted remotely, by video (V), because of the restrictions arising from the pandemic Covid19.

REPRESENTATION:

Claimant: Mr A Hiles, trade union representative
Respondent: Mr H Ramm, Group General Manager

JUDGMENT

The Tribunal unanimously holds:

1. The claimant resigned as a consequence of a fundamental breach of contract of the respondent and was constructively dismissed. The dismissal was unfair.
2. The claimant was subject to harassment related to his race over a between December 2015 and May 2019 in respect of the colour of his hands and in October 2018 by analogy with an unpleasant fictional character.
3. The claimant was subjected to harassment on 5 April 2019 by the General Manager who told him 'not to go there' when he raised concerns that actions taken against him might be motivated by his race.
4. The harassment was conduct which extended over a period and is not out of time.

5. The remaining claims of direct race discrimination and harassment are dismissed.
6. The respondent shall pay to the claimant compensation for the unfair dismissal in the sum of £3,421.53. This comprises a basic award of £1,421.53 (being a gross weekly pay of £473.85 x 3 years of continuous employment) and a compensatory award of £2,000 reflecting an agreed loss of earnings of £1,500 and loss of statutory rights of £500.
7. The respondent shall pay to the claimant the sum of £10,200 in compensation for the injury to his feelings for the harassment. The sum has been calculated at £10,000 and interest of 1333.33 (8% per annum, being £66.66 per x 20 months) with a reduction of 10% on to reflect the unreasonable failure of the claimant to comply with the ACAS Code of Practice on Discipline and Grievance Procedures 2015.
8. The recoupment provisions do not apply.

Employment Judge D N Jones

Date: 8 January 2021