

# THE FAIR EMPLOYMENT TRIBUNAL

Case Ref No: 00364/96 FET

*Alexander Shaw*

*APPLICANT*

*and*

*Greenan Inns Ltd, T/a Balmoral Hotel*

*RESPONDENT*

## DECISION

The unanimous decision of the Tribunal is that the applicant was unlawfully discriminated against contrary to the provisions of the Fair Employment (Northern Ireland) Act 1976. He is entitled to the sum of £11,996.54 as compensation.

1. The applicant was represented by Mr U McMullan of the Fair Employment Commission. He opened the case by producing documents which showed the extensive lengths the Fair Employment Commission had gone to in trying to elicit information from the respondent. The respondent had been sent a Notice of Hearing from the Office of Industrial Tribunals and the Fair Employment Tribunal and had not completed it. There was no appearance by the respondent at this hearing and no reasons had been sent by them to give any indication that they would not be in a position to defend the case. There were a number of telephone messages recorded and evidence was given about them by Ms Hawthorne, Senior Complaints Officer with the Fair Employment Commission. The respondent, through its Personnel Officer, had promised to give replies to the statutory questionnaire on a number of occasions but had never done so. As explained later in the decision the Tribunal draws an inference of unlawful discrimination from the respondent's failure to answer the applicant's statutory questionnaire.

2. The applicant stated that he was employed from April 1995 as a Chef de Partie by the respondent firstly at Crawfordsburn Inn and then he was transferred in September 1995 to the Balmoral Inn. He stated that he was the only Protestant Chef in the kitchen and at first there were no problems, only a few remarks were made which were not directed at him. In December 1995 he was eating lunch in the lounge when a waitress told him that the Sous Chef had said "was the orange bastard going to come in to do some work"? She repeated it to him again. He went to see the Chef who said it was just a joke. The applicant did not find it amusing and went to speak to the restaurant supervisor. He complained to her but she did nothing and walked away. He complained to the Head Chef that he found the remark offensive. The Head Chef came back to him two days later and said that the Sous Chef had admitted the remark and apologised but the apology was never made personally to the applicant. The applicant stated that from then on if any of the people were going out for a drink he was excluded. After the breakdown of the cease-fire in 1996 when the applicant was working in the kitchen, one of the Chefs shouted "next time the cease-fire breaks you are getting the first bullet". The applicant said this made him feel very unsafe. He stated to the Tribunal that he belonged to the Orange Order and a kitchen girl said to him that they had seen him at an Orange parade in Belfast. This made him feel uneasy. He felt that he was under pressure and that the staff did not want him on the premises. He complained to Frank Barbour, the General Manager, that he was being harassed out of his job. The Manager stated that he would deal with it. This happened around 5 May 1996. He heard nothing further until 19 May. The General Manager came back to him and said he was being paid off because he was not a team member. The Tribunal accepted the applicant's evidence that there had been no complaints or problems about his work. He had had no problems with the Head Chef. He stated to the Tribunal that he felt devastated as this dismissal was totally unwarranted. He could not talk to his wife about it and he drank heavily trying to block it out of his mind. The applicant stated that he was able to get a job at Kingsway Meats and the Tribunal accepted that this was at a lesser salary. He then worked full time for the company and in February 1998 obtained a position with Gardner Merchants with a higher salary. In answer to questions from the Tribunal the applicant stated that he had got on well with the Sous Chef for a time and had socialised with him. The Sous Chef had told him that the kitchen had been informed by the Head Chef that a Protestant was coming into the kitchen as a Chef. This was told to the staff before the applicant started work at the Balmoral Inn.
3. The Tribunal was satisfied that the respondent was debarred from taking any part in the proceedings. There was no evidence to be considered other than that of the applicant and Ms Hawthorne from the Fair Employment Commission. The applicant gave his evidence in a frank and forthright manner and in the absence of any evidence to the contrary the Tribunal accepted it as fact. The Tribunal was also shown monitoring returns obtained by the Fair Employment Commission and which showed that the religious make up of the staff at Greenan Inns was 96% Roman Catholic at the time the applicant was working there. The applicant was obviously concerned about his safety and the pressure he was coming under by these uncalled for sectarian remarks. The respondent management appeared to have shown a total disregard for the well-being or safety of this Protestant employee. The remark which we accept about the bullet was one which any reasonable management should have taken very

seriously and investigated further. It appeared that they took no such action at all. The serious feature of this case is that when the applicant complained to the General Manager there was no feedback to him about the complaint and instead he found that he was dismissed. The Tribunal accepts that there were no complaints ever made about his work and that this dismissal amounts to a further and very serious act of victimisation against the applicant. The respondent totally failed to answer the applicant's statutory questionnaire and the tribunal draws an inference of unlawful discrimination from this failure.

4. The applicant stated to the Tribunal that he was extremely upset and he had suffered considerably as a result of the respondent's treatment. We can accept this and consider that the respondent, by dismissing the applicant after he had made genuine complaints had aggravated the injury to the applicant's feelings. This is a clear example of oppressive and high-handed conduct which terminated the working career of the applicant with the respondent hotel. It is not the action of any reasonable management. We consider that because of this serious injury to the applicant's feelings the sum of £10,000 is an appropriate award for damages. Interest is calculated as per the schedule attached under the provisions of Regulation 3 of the Fair Employment Tribunal (Remedies) Order (Northern Ireland) 1995.



**M P PRICE**  
Vice President

**Date and place of hearing: 11 May 1998 at Belfast**

**Date decision recorded in register and issued to parties: 22 MAY 1998 DPS**

## SCHEDULE

	£
1. Injury to Feelings	10,000.00
Date of act of discrimination 19 August 1996	
Calculation Date: 22 May 1998	
Applicable rate of interest 8% for 642 days	1,407.12
2. Special loss	
7 weeks loss from date of dismissal @ £13 per week	91.00
then 75 weeks' loss at £6 per week	<u>450.00</u>
Total	541.00
Mid-point date for calculation = 6 October 1997	
324 days at 8%	<u>38.42</u>
	589.42
Total Award	<u><u>11,996.54</u></u>