

FAIR EMPLOYMENT TRIBUNAL

CASE REFS: 2/18FET
40/18IT

CLAIMANT: Bronagh Murray
RESPONDENT: Ministry of Defence

JUDGMENT

With reasons to be given separately per Rule 57(3) of the Industrial Tribunals and Fair Employment Tribunal (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2020.

CONSTITUTION OF TRIBUNAL

Employment Judge: Mr C Hamill
Members: Mr T Carlin
Mr R McKnight

APPEARANCES:

The claimant was represented by Mr Michael Potter of counsel, instructed by Archer Solicitors.

The respondent was represented by Ms Rachel Best of counsel, instructed by the Crown Solicitor's Office.

1. The parties have agreed liability in respect of the Claimant's claims of religious and sexual discrimination.
2. The parties agreed a figure of £16,420.97 for loss of earnings for the period 9 August 2019 to 16 January 2021, subject to mitigation.
3. The parties have agreed they will calculate the actuarial loss subject to 4 (d) (e) (f) below. If the parties are not able to reach an agreed figure for actuarial loss they are to notify the tribunal immediately and a hearing will be listed in relation to the actuarial loss remedy.
4. The parties disagree in relation to
 - (a) The impact of mitigation on the compensation for loss of earnings.

- (b) Injury to feelings compensation.
- (c) Psychiatric injury compensation.
- (d) Whether pension benefits to age 67 should be included or excluded in the calculation of compensation.
- (e) The withdrawal factor.
- (f) The discount rate.

5. In relation to the matters remaining in dispute, as set out in 4 above:

- (a) The tribunal concludes that the claimant did not fail to mitigate her loss and her compensation for loss of earnings in the period 9 August 2019 to 16 January 2021 is therefore not reduced in that regard.
- (b) The tribunal concludes that injury to feelings compensation is awarded at £20,000.
- (c) The tribunal concludes that psychiatric injury compensation is awarded at £20,000.
- (d) The tribunal concludes that pension benefits to age 67 should not be deducted from compensation.
- (e) The tribunal concludes that the withdrawal rate is 20%.
- (f) The tribunal concludes that the discount rate is -1.75%.

6. The tribunal therefore awards compensation as follows:-

- (a) Actuarial loss, to be agreed between the parties or at a further remedy hearing.
- (b) Loss of earnings, £16,420.97.

It is 1652 days from the 3 August 2019 to the date of calculation (10 February 2022). Per Article 7(1)(b) of the Fair Employment Tribunal (Remedies) Order (Northern Ireland) 1995 interest is payable at the rate of 8% per annum from the midpoint date and ending on the day of calculation, which is for 826 days. The calculation for interest is therefore:-

$$826 \times 8\% \times 1/365 \times 16420.97 = \text{£}2,962.32$$

- (c) Injury to feelings, £20,000. Per Article 7(1)(a) of the 1995 Order interest is payable at the rate of 8% per annum. That is for 1652 days. The calculation for interest is therefore:-

$$1652 \times 8\% \times 1/365 \times 20000 = \text{£}7,215.94$$

Psychiatric injury, £20,000. Per Article 7(1)(b) of the 1995 Order interest is payable at the rate of 8% per annum from the midpoint date and ending on the day of calculation, that is for 826 days. The calculation for interest is therefore:-

$$826 \times 8\% \times \frac{1}{365} \times 20000 = \text{£}3,607.97$$

Total interest as calculated is therefore £13,786.23.

7. Written reasons shall be issued in due course.
8. This is a relevant decision for the purposes of the Fair Employment Tribunal (Interest) Order (Northern Ireland) 1992.

Employment Judge:

Dates and place of hearing: 14, 15, 16 December 2020 & 16 March 2021, Belfast.

This judgment was entered in the register and issued to the parties on: