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## HR Update March 2012

### Employment Tribunal Case Study - Alleged Sex Discrimination and Unfair Dismissal

In January we shared with you our success in supporting a retained client with an Employment Tribunal Claim for sex discrimination and unfair dismissal which resulted in both claims being dismissed. Here follows a brief summary of the case.

#### The Company

The company involved with the case provides elderly residential and nursing care to over 175 residents across five care homes and one nursing home throughout the West Midlands area. They employ in excess of 220 staff.

#### The Challenge

Due to the difficult economic climate our client undertook a business review in order to identify cost saving opportunities across the business. This resulted in the identification of two job roles at possible risk of redundancy. One of the employees identified 'at risk' of redundancy raised grievances during the redundancy consultation process claiming that her job role was at risk of redundancy due to her notifying her employer that she was pregnant.

The redundancy consultation process was halted whilst the grievances were heard and investigated. The investigation found that there were no grounds to support the grievances. However the employee appealed this outcome and the grievances were reviewed again, with the same outcome. The redundancy consultation process reconvened and following the rejection of alternative employment opportunities, the employee was dismissed on the grounds of redundancy.

The employee later submitted claims of sex discrimination and unfair dismissal to the Birmingham Employment Tribunal.

## HR Support

We worked closely with our client throughout what was a difficult and complex case. The management of the case involved the following steps;

- 24/3/2011 Commencement of the redundancy consultation process
- 14/4/2011 Receipt of two separate grievances, one alleging sex discrimination, the other alleging bullying
- 18/4/2011 Commencement of a period of long-term sick absence due to 'work related stress'
- 18/5/2011 Grievance Meeting
- 10/6/2011 Grievance appeal meeting
- 22/6/2011 Re-commencement of redundancy consultation process
- 23/6/2011 Receipt of ET1 (Employment Tribunal Claim)
- 5/7/2011 Formal notice of redundancy meeting
- 22/7/2011 Submission of ET3 (Employment Tribunal Response)
- 26/7/2011 Redundancy appeal meeting
- 11&12/2011 Preparation of our client's ET Bundle and Witness Statements
- 3&4/1/2012 Representation of our client at the Birmingham Employment Tribunal

## Conclusion

We were fully involved with this case from the beginning, as soon as our client was aware that they had a potential redundancy situation to manage. We advised our client, every step of the way, attended all meetings and produced all resulting paperwork (investigatory notes, letters etc.) thereby ensuring our client followed a legally compliant process. It was this process, and the documented evidence which enabled our client to prove to the Employment Tribunal that they acted as a reasonable employer and followed a fair process resulting in a fair, non discriminatory dismissal.

Due to our involvement we were able to represent our client, in defence of the claims of sex discrimination and unfair dismissal, at the

Employment Tribunal where both claims were dismissed. The quality of our client's paperwork (policies, investigatory notes and letters etc.), were commended by the Employment Tribunal Judge.

Our personal, hands-on support with the management of this case (prior to representation at the Employment Tribunal) did not cost our client any more than their pre-agreed contractual retained monthly fee. At the time the maximum, award limit for a claim of unfair dismissal was £68,400, with average awards being in the region of approximately £8,924 (Source: Employment Tribunal and EAT Statistics 2010-11) which, if had been awarded in this case, would have been a significant cost for our client.

Although no employer wishes to find themselves in front of an Employment Tribunal, we have found that by guiding our client through this process, they now have an increased understanding and greater confidence to directly manage their employee issues, resulting in a more effective, consistent and professional approach to their HR management.

## Testimonial Video

We would like to say a special thank you to our clients Tom Prentice of Prentice Furniture Manufacturing Ltd, Simon Badland and Julie Rotchell of Oldfield Residential Care Ltd and Rob Ally of XL Accident Repair Centre who all shared their experience and thoughts about working with Hassle Free HR Ltd. The Testimonial Video can be viewed from the front page of our website, <http://www.hasslefreehr.co.uk>

For clarification of any of the above updates or for advice and guidance on any HR and/or Health and Safety Concerns contact us by emailing [cmcdonald@hasslefreehr.co.uk](mailto:cmcdonald@hasslefreehr.co.uk) or by calling 02476 664092.

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