



**EMPLOYMENT AND DISCRIMINATION TRIBUNAL
NOTIFICATION OF TRIBUNAL'S DECISION**

On a complaint made to the Employment and Discrimination Tribunal, as specified below.

Tribunal Hearing held on 10 November 2006

between

Applicant: Mrs Theresa Le Page

Respondent: Guernsey Sporting Club

Tribunal Chairperson: Ms Georgette Scott

Side Members: Mrs Caroline Latham and Mr Steven White

Nature of Dispute: Mrs Le Page, a cleaner with the Guernsey Sporting Club, claimed she was unfairly dismissed when her employers advised her of their intent to replace her with bar staff who would also do cleaning.

Guernsey Sporting Club claimed that that Mrs Le Page had left by mutual consent.

Tribunal's Decision:

The Tribunal found that under the provisions of the Employment Protection (Guernsey) Law, as amended, having considered all the evidence and the representations of both parties, and having due regard to all the circumstances, that Mrs Le Page was unfairly dismissed.

In an effort to restructure and update the Guernsey Sporting Club's workforce and employment practices the Committee running the Club sought to replace an ageing workforce with younger more versatile workforce. After identifying replacement bar staff that could also do cleaning Mrs Le Page was advised of the planned changes and felt obliged and somewhat pressured to leave. The Club made no attempt to pursue a course of redundancy for Mrs Le Page, which would have been a potentially fair course of action. The Tribunal therefore find that she was unfairly dismissed and award six months pay in accordance to section 22 of the Law.

Amount of Award (if applicable): £ 952.80

NOTE: Any award made by a Tribunal may be liable to Income Tax

Any costs relating to the recovery of this award are to be borne by the Employer

Signature of Tribunal Chair: Ms G Scott

Date: 4 December 2006

The detailed reasons for the Tribunal's Decision are available on application to the Secretary to the Tribunal, Commerce and Employment, Raymond Falla House, PO Box 459, Longue Rue, St Martins, Guernsey, GY1 6AF

REASONS FOR TRIBUNAL'S DECISION

The Law referred to in this document is The Employment Protection (Guernsey) Law, 1998, as amended.

The Claim

Mrs Le Page, a cleaner with the Guernsey Sporting Club, claimed she was unfairly dismissed when her employers advised her of their intent to replace her with bar staff that would also do cleaning.

Guernsey Sporting Club claimed that that Mrs Le Page had left by mutual consent.

Representatives

The Applicant represented herself.

The Respondent was represented by Mr Peter Davies, Vice President of the Guernsey Sporting Club and John Fawcett, Former President of the Guernsey Sporting Club

Documents

Entered by the Applicant:

Form ET1

A document marked EE1

Entered by the Respondent:

Form ET2

A document marked ER1

Clarification Points

As there was a conflict as to the amount of salary paid to the Applicant during the last six months of her employment, both submissions were discussed and it was subsequently agreed that the sum of £ 952.80 (6 x £158.80) was correct.

Findings of Fact

Mrs Le Page was employed by The Guernsey Sporting Club between 1 June 2002 and 24 March 2006.

The Guernsey Sporting Club has a strong military tradition and was originally established to provide recreation for veteran soldiers. It is owned by the members, who at present number 116, and currently has 2 employees, both bar staff, one of whom also provides cleaning duties.

The Guernsey Sporting Club's management is vested in its Committee which has 9 members. The Committee members provide their duties on a part time, voluntary basis and are people from all walks of life, mostly from business, finance and commerce and some self employed.

Applicant's submission

Mrs Le Page provided cleaning duties to the Guernsey Sporting Club for 4 years; she did 2 hours, three mornings per week.

Mrs Le Page advised that towards the end of March 2006, at a date neither party could identify accurately, she received a telephone call from Mr John Fawcett, Former President of the Guernsey Sporting Club. He advised her that her position was being terminated as two new barmaids were being taken on who needed the extra hours of cleaning so that they had a better take home salary.

Mr Fawcett asked Mrs Le Page when she could terminate her employment and she initially offered three weeks notice but was made to feel uncomfortable with the suggestion. As she had already booked leave to go to the UK to spend time with her dying brother she agreed reluctantly to finish that week.

During her final days with the Club she worked alongside the new bar staff that had recently joined the Club's staff.

She received a leaving gift of £100, a bottle of gin and a bouquet of flowers.

Respondent's Submission

Mr John Fawcett advised the panel that he largely had the same testimony as Mrs Le Page.

As the former President of the Club it was felt best by the Committee that he should approach Mrs Le Page as he had had most contact with her over the years. His objective was to advise her that the Club were "letting her go" and to talk to her, although he denied using the word "termination." However, he acknowledged that he had discussed her notice period with her.

Mr Fawcett and Mr Davies advised that the Committee, under the leadership of their President, Mr Bruce Mansell, a former Commerce & Employment Adjudicator, had wished to put the Club's employees under a more formal and up-to-date footing. This would involve the use of contracts of employment and job descriptions. They accepted that the previous arrangements had been casual and ad hoc.

Over a period of time the Committee discussed the replacement of the Club's aging and in some cases infirm employees, and during these discussions had learnt of potential new bar staff.

In discussing hours with the potential new staff it had become clear that the cleaning duties could also be provided by these staff and that this would also be attractive to them in offering them more hours. It was therefore agreed to approach Mrs Le Page with this news and to ask Mr Fawcett to make the contact with her, given that he knew her best.

Conclusions

Despite the best intentions of the Club's Committee to bring their employment practices up to date they were naive in overlooking that what they were pursuing with Mrs Le Page was effectively a course of redundancy following restructuring.

The Club's casual and ad hoc relations with their employee Mrs Le Page ignored the fact that she had the same rights to employment protection as any other employee.

Decision

The Tribunal found that under the provisions of the Employment Protection (Guernsey) Law, as amended, having considered all the evidence and the representations of both parties, and having due regard to all the circumstances, that Mrs Le Page was unfairly dismissed.

In an effort to restructure and update the Guernsey Sporting Club's workforce and employment practices the Committee running the Club sought to replace an ageing workforce with younger more versatile workforce. After identifying replacement bar staff that could also do cleaning Mrs Le Page was advised of the planned changes and felt obliged and somewhat pressured to leave. The Club made no attempt to pursue a course of redundancy for Mrs Le Page, which would have been a potentially fair course of action. The tribunal therefore find that she was unfairly dismissed and award six months pay in accordance to section 22 of the Law.

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