

When *push* comes to shove!! - Lawyer unfairly dismissed and discriminated against pregnant nanny in *Musilipah v Dhennin*

Summary

Ms Musilipah successfully claimed direct pregnancy discrimination and automatic unfair dismissal against Mr Dhennin, a partner at Hogan Lovells.

The employment tribunal awarded £11,000 compensation, £6,500 damages and £500 interest.

Background

Ms Musilipah began to work for Mr Dhennin and Mrs O'Sullivan as a nanny-housekeeper from January 2017.

She enjoyed a happy working relationship with Mr Dhennin and his wife, caring for both their children and provided house-keeping services.

In August 2017 Ms Musilipah suspected she may be expecting and a scan on 28 August 2017 confirmed that she was approximately 8 weeks pregnant.

Material Facts

On Monday 18 September 2017, Ms Musilipah told Mrs O'Sullivan of her pregnancy.

On Friday 22 September 2017, approximately an hour before she was due to finish for the day, Mr Dhennin told Ms Musilipah that he and his wife no longer required her to work for them because both children were going to nursery full-

tion, the tribunal judge found:

1. There was a diminished need for Ms Musilipah's services if both children were at nursery, however, it was not accepted that her duties ceased.

2. There was a lack of cogent evidence that the decision to dismiss was made before knowledge of the pregnancy.

3. The assertion that Ms Musilipah had been made aware she was at risk of redundancy was untrue.

4. It was inaccurate that Ms Musilipah had in some manner expected redundancy.

As a result, the tribunal judge had to find that pregnancy was a material factor in the decision to dismiss.

Comment

This is a peculiar case in that this situation should have been entirely avoidable. As a well-qualified and respected lawyer, Mr Dhennin had considerable resources to draw on to inform his decision, which should have warned that the dismissal was unfair.

This case serves as an important reminder to employers that a tribunal can draw inferences of discrimination where knowledge of a claimant's pregnancy is hidden and inac-

time.

He handed her a letter of termination which confirmed that she was dismissed. She finished work that day.

Decision

The tribunal judge found primary facts of discrimination, as follows:

1. Mr Dhennin knew of Ms Musilipah's pregnancy but had attempted to obscure that knowledge.
 2. There was no reasonable explanation for the omission of Mr Dhennin's knowledge.
 3. Mr Dhennin made an untrue assertion that Ms Musilipah was warned of the risk of redundancy.
 4. No full-time nursery place existed for one of the children prior to 25 September 2017.
- In considering whether Mr Dhennin had a non-discriminatory explana-

curate evidence is given to explain the mistreatment.



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Author, Joshua Platt, is a Trainee Employment Solicitor working alongside Director Anthony Thompson who has over 20 years' experience in this area. Under Anthony's supervision Joshua assists in matters relating to unfair dismissal, discrimination; and unlawful deduction from wages.

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