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Dear Sir or Madam

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Yours faithfully

Monaco Solicitors

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**Grievance letter: Suspended, back injury and equal pay**

[Employee address]

[HR manager]

[Company name and address]

[10th February 2019]

Dear [HR Manager]

I am writing to you to raise a formal grievance.

As you are aware, my employment started in [July 2014]. I am employed as a Payroll Supervisor.

Since [October 2017], following an instruction from [Manager 1] part of my role has been to check and to double check the values being processed through the office for overtime to ensure that the correct amounts were processed, that individual employees were paid the appropriate amount and to ensure that where appropriate, overtime was charged to our relevant clients. As part of this task, and more generally as my role of Payroll Supervisor, naturally I have access to the payroll details for all employees. I can see at a glance the hourly rate of my colleagues and myself.

The reason I was allocated this task, which I have completed on a monthly basis since [October 2017] is that I identified problems and errors with the overtime payment. In fact most recently, in [September 2018], I again identified some errors, which had to be corrected because the wrong person was paid some overtime. I was following reasonable instructions given by my superiors. At no point have I done or accessed any documents which I did not have permission to. In order to check the correct overtime payments were being made I looked at a spreadsheet which would include the following information in relation to my colleagues:

* Salary;
* Hourly rate;
* Amount payable;
* How much was being paid for the overtime (e.g. x1.5, x2 or x3); and
* Whether that amount was chargeable or rechargeable to clients.

I have always been able to see whether the hourly rate for other employees was greater or less than my hourly rate.

On [10th December 2018] you accused me of accessing this information for my own personal financial gain, which I strongly deny.

I was on paternity leave in [November 2017]: I had two weeks off. When I came back from paternity leave I was moved, without my consent to a different role. This amounted to detriment for having taken paternity leave and it was a unilateral variation of my contract of employment.

The role that I was doing before paternity leave was to supervise a team of 18 to 20 staff in the payroll team; when I returned from paternity leave you covered another colleague’s maternity absence. This involved managing a new smaller team involved in a higher profile piece of work. This team was performing poorly and it required a lot of work to get into shape. Between about [May 2018] to [August 2018] I was required to work excessive hours and I in fact worked 349 hours of overtime during that period.

Between [May] and [August 2018] my team and myself were regularly working from 7a.m. until 11p.m. In addition I was also required to travel a lot and I spent a lot of time in the office. Because of the company’s need to have me working such long hours I started to experience lower back pain. I have never had a risk assessment or workstation assessment and the length of time I was sitting at my desk working caused the pain. The company is responsible for this injury as it was caused as a result of the company’s negligence, failure to take care of my health and safety at work and breach of the Working Time Regulations 1998 by making me work excessive hours.

During that period on numerous occasions I raised verbally with manager [Manager 2] and with another manager [Manager 3] that both me and my team were suffering and that I was concerned about my well-being and health. On numerous occasions I told both [Manager 2] and [Manager 3] that my team and I could not carry on as we were because working such long hours was putting a serious strain on my health and my team’s health. On more than one occasion I felt obliged to send my entire team home early because they were so tired and exhausted, having not had adequate rest breaks and being required to work such long hours.

I have never had back problems before but eventually my doctor signed me off work and I was diagnosed with a slipped disc. My doctor said that this was work-related back pain because of the amount of time I’d had in the office. I had to have an operation and I was off work for two weeks from about [27th August 2018].

When I returned to work on about [15th September 2018] I still had lower back pain that is ongoing and my doctor does not know whether it will improve or not. I had painkillers injected which are supposed to sit in my spine for between 3 to 6 months. In most afternoons I feel pain. I consider myself to be disabled for the purposes of the Equality Act 2010.

When I went back to work after my back operation I was taken into a meeting room; I was told by my manager [Manager 1] that I had lost my team and that the team of 8 to 12 staff who I was managing before my sick leave, I was no longer required to supervise because of the risk of recurrence of my back pain and because of the high profile nature of that role. I was replaced by a female employee who is less experienced than me. I did not agree to this variation and I objected. I asked to speak to [insert name of manager] who did agree to meet me and who told me directly that that the *‘issues with your back have given us the opportunity to move you’.* This was less favourable and unfavourable treatment because of my disability.

There was no change to my job title or to my pay. I was still the most senior payroll supervisor operating for the company and aside from removing my direct reports, my duties were the same, including carrying out the monthly overtime check, which I have set out above.

In each October, employees are normally awarded pay increases. I realised that my pay had not increased in [October 2018]. I spoke to colleague and friend at work, [Employee 2], in [October 2018] about this, I realised that she and other female colleagues had been awarded a pay rise whereas I hadn’t.  All of the other payroll supervisors are female and were being paid more than me. I am led to believe that they have been paid more than I have for the last 2 years.

After [Employee 2] had told me that my female colleagues had all been awarded a pay rise in October 2018, I spoke to my other colleagues face to face in [October] and [November 2018]. They all confirmed that they had indeed been awarded a pay rise.

At [11:00am] on Monday [8th  December 2018], I requested to meet with [Manager 2] to ask why it was that I had not been given a pay rise. I suspected that I was being discriminated against, possibly because of my disability or possibly because of my gender.

Before that meeting could take place, due to the lack of [Manager 2’s] availability and on [8th December 2018], I carried out the overtime checking task that I do on a monthly basis (a little earlier than usual as payroll was to run earlier in the month so that staff could be paid before Christmas). I was not looking for confirmation of the pay rises: I had no need to as my colleagues had already verbally told me that they had been awarded pay rises of various amounts. However, I accept that if I had wanted to get confirmation from the figures, I would have been able to do this during the overtime checking task, as I have access to all employee’s hourly rates of pay, and always have had such access.

I finally met with [Manager 2] on [9th December 2018] and asked why I had not been awarded a pay rise, whereas my female colleagues all had. I asked him whether he knew of any reason as to why I had not been given a pay rise. I asked whether it was because of the move I had to make following the birth of my daughter when I returned from paternity leave. [Manager 2] agreed that he would speak to [Manager 3] and come back to me. Instead of this, I was summoned to an investigation meeting.

I explained the above in detail to [Manager 3] at an investigation meeting on [12th December 2018].

Of the disciplinary process:

* I was not informed what the investigation was about before the meeting on [12th December 2018]. I was then told that the matter was about a breach of data protection, which it is clearly not as I have always had permission to access the payroll information of my colleagues as part of my job as Payroll Supervisor.
* It is of note that I was not suspended during the investigation and I was required to carry on with the job I carry out, which involves accessing and checking the overtime spreadsheet which contains all individuals’ salary details.
* The Investigation timeline is wrong in several respects and [Manager 3] has lied
* [Manager 3] was not independent and should not have been the investigating officer, as I had brought my complaint to him in the first place.
* The statements taken from all employees were written for them and they were forced to sign them at their manager’s request, as [Manager 3] confirmed
* I was alleged to have committed “serious breach of data protection act” in regards of personal information (it is not clear what personal information other than salary details which I am entitled to access as part of my role, or how this is a breach of the data protection act)
* I was alleged to have committed conduct which causes loss of faith in my integrity and a “serious breach in trust and confidence”.
* The allegations made against me have trumped up charges presumably to punish me for raising a complaint about my pay, or for trying to protect my own health and that of my colleagues, or for having a disability.
  + I was summoned to a disciplinary hearing on 18th December 2018, which [Manager 3] chaired. In that hearing I pointed out that I was protected under the Equality Act 2010 and was entitled to ask about my pay and why I had not been awarded a pay rise.
  + The disciplinary hearing outcome was the [Manager 3] was “unable to draw any clear conclusions in relation to the allegations on the basis of the investigation process completed.” Instead of dismissing the allegations at this point, which he clearly ought to, he ordered that there be another investigation, to be carried out by an impartial manager.
  + I was suspended at this point, despite the allegations not being proven and the fact that I wasn’t suspended in the first place.

I am still suspended, however, the company has taken the remarkable step of asking me to terminate my employment in exchange for £1,856.00. If I don’t accept the offer, I am told that the disciplinary investigation will proceed, which will no doubt lead to my dismissal. I do not accept that this offer is properly “without prejudice” nor do I accept that it amounts to a “pre-termination negotiation” and it is a clear indication of the company’s intention to force me out of my job.

My complaints:

* + **Breach of contract**: The company has fundamentally breached my contract of employment by the actions I have set out above. I reserve all my rights in this regard and this letter is very much a last hope that the company will do the right thing and to compensate me and apologise for the appalling way I’ve been treated. Otherwise I feel I have no option but to resign.
  + **Personal injury:** The company has caused me to suffer a back injury which has left me disabled.
  + **Working Time Regulations:** The company has breached the working time regulations by making me work excessive hours, without adequate rest breaks and has subjected me to detriments (see below) for having complained about this.
  + **Whistleblowing:** The company has subjected me to detriments (moving roles, taking away my team, not awarding me a pay rise and subjecting me to a disciplinary investigation and hearing on trumped up charges which did not comply with the company policy or the ACAS code of conduct and was not impartial, suspending me without reason and not dismissing the allegations when it became clear that they could not be proven) because I have blown the whistle and informed my managers about the dangerous working hours and the threat to health and safety of myself and other employees.
  + **Health and Safety:** The company has subjected me to detriments (see above) because I was in serious danger and took or proposed to take steps to protect myself or other people from danger
  + **Equal Pay:** The company has paid me less than my female colleagues who carry out like work or work of equal value. I rely on [Employee 1], [insert other names of female Employees]. I would like to have my pay backdated to whenever the discrimination started. There is no justification for the pay differential.
  + **Disability discrimination:** I have been subjected to less favourable or unfavourable treatment (see above) because of my back condition. This might also be why I was not given a pay rise. No adjustments were made to allow me to continue to do the role which I was in before my sick leave.
  + **Unpaid holiday pay:** I have not been paid holiday pay for the additional 349 hours overtime I worked. I am entitled to this additional holiday pay.

I look forward to hearing from you and would invite you to lift my suspension immediately, to award my pay rise, to compensate me for the above treatment and to allow me to return to work.

Yours sincerely,

[Employee]