



Statement of the facts

Employer “X” employed I. plaintiff from 1 January 1996, II. plaintiff from 15 June 1997. Their scopes of duties were as follows: waiter, kitchen worker and bartender and they were employed with permanent employment contracts. I. plaintiff was also the representative of the Trade Union “A”.

Employer “X” operated several restaurants in the following construction: Employer “X” leased the real estate needed for the catering (kitchen and restaurant) and all of their accessories and tools from certain institutions.

The Employer “X” also carried out exclusive veterinary services and related official epidemiological tasks in the central district of Budapest, beside the Danube. Furthermore, based on their contract with the Ministry of Health the Employer “X” had the right to issue the official permission for pets to travel, the passport for animals (so-called pet passport).

The restaurant operating in the building of the veterinary office functioned as general dining room, it offered sandwiches in the morning, lunch menu on a daily basis and it also had a coffee machine. The plaintiffs carried out their duties according to the times of the day, therefore they worked in the bar in the morning and in the afternoon and at noon they welcomed the guests and served the meal. In case of the high number of guests they helped in the kitchen as well.

The plaintiffs’ personal base wage was 1500 EUR and they didn’t receive any allowance or extra pay.

At Employer “X” a collective agreement – concluded with Trade Union “A” – was effective till 31 December 2015. According to this collective agreement the plaintiffs should receive jubilee award of 3 months’ wage after 20 years of service time. As a result of the negotiations between Employer “X” and Trade Union “A” a new collective agreement entered into force on 1 January 2016 and this collective agreement guaranteed the aforementioned benefit with an additional month’s pay for the employees.

The owner of the real estate – as lessor – terminated the Employer “X”’s lease contract on 1 November 2015 with 30 days of notice period (till 1 December 2015), and at the same time entered into a preliminary contract with Company “Y” who undertook that – after a 3 month-

long renovation of the building – they will operate an exclusive Italian restaurant and bar in the real estate from 2 April 2016.

The lessor and Company “Y” agreed to make the final lease contract on 1 January 2016 in the preliminary contract. The parties also stated that the lessor would give all the equipment present at the kitchen to Company “Y” who will decide about the usage of these pieces of equipment based on the possible conflict of interests with the new image. After the termination of the lease contract Employer “X” terminated the employment relationship of 12 waiters, 2 cooks and 1 chef including I. and II. plaintiffs on 10 November 2015. The reason for the termination was the termination of the lease contract between the lessor and Employer “X”. The I. plaintiff’s notice period was 70 days and the II. plaintiff’s was 60 days long. Company “Y” (the new lessee) called a meeting for 15 December 2015 only for employees working as waiters and cooks. Company “Y” did not inform Trade Union “A” operating at Employer “X” about this event. On this meeting Company “Y” announced that they planned to work with a young and dynamic team of employees, so they would employ 5 waiters under the age of 40. They notified that they did not need the services of the II. plaintiff who was 61 years old but the 39 years old I. plaintiff was needed. They employed a famous Italian chef to head the kitchen.

Employer “Y” (formerly Company “Y”) concerning the pay conditions notified that – opposite to the former practice – the employees’ base wage will be 1400 EUR but they undertook to pay an additional bonus of 100 EUR/month if they can reach the number of 5000 guests in the first year and in the coming years 7000 guests per year. The 100 EUR would be paid retroactively, therefore the employee’s wages will be the same as it was.

Employer “Y” informed the employees about Employer “Y”’s effective collective agreement but it did not contain the clause of jubilee award, so Employer “Y” did not see any possibilities to pay this kind of benefit in the future.

According to the fact that an independent trade union – Trade Union “B” – was functioning at Employer “Y”, the latter asked Trade Union “B” to inform Trade Union “A” – operating at Employer “X” – about the most important decisions and facts, therefore the employer’s obligation of providing information would be fulfilled.

The action

The plaintiffs filed a claim and they wanted the court to declare the transfer of enterprise.

Furthermore

- I. plaintiff filed a claim to oblige Employer “Y” to pay I. plaintiff’s jubilee award. I. plaintiff also claimed the lack of co-operation with Trade Union “A”.
- II. plaintiff asked the court to declare that they suffered age discrimination.