



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs E Williams

**Respondent:** Barbara Rogers T/A Park Hills Nursing Home

**Heard at:** Manchester **On:** 23 February 2017

**Before:** Employment Judge Franey (sitting alone)

**Representation**

Claimant: Mr B Culshaw (Solicitor)

Respondent: Mr M Ainscough (Legal Executive)

## JUDGMENT

1. The complaint in respect of written reasons for dismissal under section 93 Employment Rights Act 1996 is dismissed on withdrawal by the claimant.
2. The complaint of unlawful deductions from pay in respect of holiday pay succeeds and the respondent is ordered to pay the claimant the gross sum of **£273.87** unlawfully deducted from her pay.
3. The complaint of a breach of the right to be accompanied at a disciplinary hearing under section 11 of the Employment Relations Act 1999 succeeds and the respondent is ordered to pay the claimant two weeks' pay in the sum of **£958.00**
4. The complaint of unfair dismissal is well founded. The claimant was unfairly dismissed. The respondent is ordered to pay the claimant a basic award of **£3,772.12** (£5029.50 reduced by 20% under section 122(2) Employment Rights Act 1996) and a compensatory award of **£872.61** calculated as follows:

Lost earnings 29/9/16 to 12/10/16 2 weeks @ £481.74	£ 963.78
Loss of statutory rights	<u>£ 200.00</u>
Total	£1,163.48
Less 20% contributory fault section 123(6)	<u>£ 290.87</u>
Total	£ 872.61

5. The recoupment regulations apply to the unfair dismissal award. The prescribed period is 29 September 2016 to 12 October 2016. The prescribed amount is £963.78. The total monetary award for unfair dismissal is £4,664.73. The amount by which that monetary award exceeds the prescribed amount is £3,700.95.
6. The complaint of breach of contract in relation to notice pay succeeds and the respondent is ordered to pay the claimant damages equivalent to seven weeks' net pay in the sum of **£2,860.48**.
7. The above awards are increased under Section 38 Employment Act 2002 by the minimum award of two weeks' pay in the sum of **£958.00** because the respondent was in breach of its duty to provide the claimant with a written statement of the particulars of employment required by section 1 Employment Rights Act 1996.
8. The respondent is ordered to reimburse the claimant the issue fee in the sum of **£250.00** and, upon receipt of proof of payment, any hearing fee the claimant may yet be required to pay up to the maximum hearing fee of **£950.00**.

Employment Judge Franey

23 February 2017

JUDGMENT SENT TO THE PARTIES ON

24 February 2017

FOR THE TRIBUNAL OFFICE

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

## NOTICE

### THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number(s): 2404388/2016

Name of case(s): Mrs E Williams v Barbara Rogers T/A Park Hills Nursing Home

The Employment Tribunals (Interest) Order 1990 provides that sums of money payable as a result of a judgment of an Employment Tribunal (excluding sums representing costs or expenses), shall carry interest where the full amount is not paid within 14 days after the day that the document containing the tribunal's written judgment is recorded as having been sent to parties. That day is known as "*the relevant decision day*". The date from which interest starts to accrue is called "*the calculation day*" and is the day immediately following the relevant decision day.

The rate of interest payable is that specified in section 17 of the Judgments Act 1838 on the relevant decision day. This is known as "the stipulated rate of interest" and the rate applicable in your case is set out below.

The following information in respect of this case is provided by the Secretary of the Tribunals in accordance with the requirements of Article 12 of the Order:-

"the relevant decision day" is: 24 February 2017

"the calculation day" is: **25 February 2017**

"the stipulated rate of interest" is: 8%

MRS L WHITE  
For the Employment Tribunal Office