

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016



VCD

EMPLOYMENT TRIBUNALS

Claimant

Respondent

(1) Mrs J Brazier

(2) Mrs M Edgington

(3) Mr B Taylor

(4) Miss C Walsh

(5) Mrs J McKenry

v R1) Tennants Craft Bakery

**(R2) Mrs Debbie Collins t/a Tennants
Craft Bakery**

**(R3) Mr Carl Collins t/a Tennants Craft
Bakery**

**(R4) Miss Melissa Collins t/a Tennants
Craft Bakery**

(R5) Tennants Craft Bakery Limited

Heard at: Birmingham

On: 28 November 2016

Before: Employment Judge Dean

Appearances:

For Claimants

(1) Mrs J Brazier: in person

(2) Mrs M Edgington: in person

(3) Mr B Taylor : Mr Blitz (acting on behalf for Mr Taylor)

(4) Miss C Walsh: in person

(5) Mrs J McKenry: no attendance, written submissions

For Respondents: No appearance

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

JUDGMENT

The judgment of the Tribunal is that the claimants and each of them were employed by the First, Second and Third Respondents jointly and severally trading as Tenants Craft Bakery.

1 Mrs J Brazier: Case Number 1301817/2016

1.1. Mrs Brazier was dismissed by reason of redundancy on 16 April 2016 and she is entitled to a statutory redundancy payment in the sum of £3,886.00.

1.2. The respondents made an unlawful deduction from the claimant's wages in the sum of £144.00. The respondent is ordered to pay the claimant the sum of £144.00.

1.3. The respondents failed to pay the claimant her statutory notice period or payment in lieu thereof. Her net pay was £144.00 per week and her entitlement over a 12 week statutory notice period is £1,728.00. The respondent is ordered to pay the claimant damages in the sum of £1,728.00.

1.4. The respondents failed to pay to the claimant her accrued and untaken holiday entitlement in the sum of 33 hours accruing at the national minimum wage of £7.20 from 5 April in the sum of £237.60. The respondent is ordered to pay to the claimant the sum of £237.60.

1.5. The respondent having failed to comply with the ACAS Code of Practice the awards at paragraphs 1.1 - 1.4 that I have made to the claimant are uplifted by 25% in accordance with the provisions of section 124A of the Employment Rights Act in the sum of £1,498.90. The respondent is ordered to pay to the claimant the further sum of £1498.90.

1.6. In the circumstances I award payment of both the issue and the Hearing fee to the claimant to be paid by the respondents in the sum of £390.00.

1.7 The respondent is ordered to pay compensation to the claimant in the grand total sum of £7494.50 in addition to fees in the sum of £390.00.

2 Mrs Edgington: Case Number 1302284/2016

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

2.1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment of £4,200.00.

2.2. The respondents failed to observe the ACAS code and I award a 25% uplift of the sums to which the claimant is entitled in accordance with the provisions of section 124A of the Employment Rights Act 1996, an uplift in the sum of £1,459.00.

2.3. The respondent is ordered to pay fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

2.4. The respondent is ordered to pay compensation to the claimant in the grand total sum of £5,659.00 in addition to fees in the sum of £390.00.

3 Mr B Taylor: Case Number 1302284/2016

3.1. Mr Taylor's complaint of unfair dismissal is withdrawn and stands dismissed.

3.2. The claimant was dismissed by reason of redundancy and is entitled to a statutory redundancy payment in the total sum of £4,824.00.

3.3. The respondents failed to pay the claimant his statutory entitlement to notice or payment in lieu thereof, a statutory entitlement of £1,920.00. The respondent is ordered to pay damages in the sum of £1,920.00.

3.4. The respondents failed to provide to the claimant a section 1 statement of change of terms and conditions of employment. The respondent is ordered to pay to the claimant compensation in the gross sum of £643.20.

3.5. The respondents failed to comply with the ACAS code and I award an uplift of the compensation payments of 25% in accordance to the provisions of section 124A of the Employment Rights Act 1996, an uplift of £1,686.00.

3.6. The respondent is ordered to pay fees incurred by the claimant in the issue of these proceedings £250.00 and an issue fee incurred for the unfair dismissal in the sum of £950.00, a total sum of £1,200.00

3.7. The respondent is ordered to pay compensation to the claimant in the grand total sum of £9,073.20 in addition to fees in the sum of £1,200.00.

4 Miss C Walsh: Case Number 1301759/2016

4.1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment in the sum of £5,467.00.

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

4.2. The respondents made unlawful deductions from the claimant's pay and the respondent is ordered to pay to the claimant the sum of £370.00.

4.3. The respondent failed to comply with the ACAS code and, in accordance with the provisions of section 124A of the Employment Rights Act 1996, I order that the payments to which the claimant is entitled be uplifted by 25% in the sum of £1,459.25.

4.4 The respondent is ordered to pay the fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

4.5 The respondent is ordered to pay compensation to the claimant in the grand total sum of £7,296.00 in addition to fees in the sum of £390.00.

5. Mrs J McKenry: Case Number 1302362/2016

5.1. The claimant is entitled to a statutory redundancy payment of £5,970.00.

5.2. The respondent is ordered to pay to the claimant compensation in lieu of her statutory notice period of 12 weeks' pay at £194.00 net, a total of £2,328.00. The respondent is ordered to pay to the claimant damages in the sum of £2,328.00.

5.3. The respondent made unlawful deductions from the claimant's pay in respect of a week in hand in the sum of £194.00. The respondent is ordered to pay to the claimant the sum of £194.00.

5.4. The respondent failed to pay to the claimant her accrued entitlement to holiday pay in respect of 54 hours in the total sum of £388.00. The respondent is ordered to pay to the claimant the sum of £388.00.

5.5. The respondent failed to observe the ACAS code and in accordance to the provisions of section 124A of the Employment Rights Act 1996, I award an uplift in the compensation award of 25%, the total sum of £2,220.00.

5.6. The respondent is required to pay the claimant's fees in the total sum of £390.00.

5.7 The respondent is ordered to pay compensation to the claimant in the grand total sum of £11,100.0 in addition to fees in the sum of £390.00.

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

REASONS

1. The judgment and the reasons for it were announced at the hearing of this case. The parties have requested that reasons for the Judgment be sent to them. I would apologise to the parties for the delay in forwarding the written Judgment and Reasons for it to them. The promulgation of the judgment was initially delayed by my judicial commitments and subsequently in 2017 by my prolonged absence from the Employment Tribunal because of ill health that prevented the judgment and reasons for it being sent to the parties.

2. By way of background the claimants were employed by a business that traded as Tennants Craft Bakery and they had all been long serving employees of the respondents when their employment came to an end unexpectedly when the business at the locations at which they were employed by the respondents ceased trading. In the circumstance Mrs Edgington's employment was terminated on 25 November 2015 and the remaining claimants' employment was terminated on 16 April 2016. The five cases have been consolidated by the Employment Tribunal as they involve the same employer and sadly the same or very similar circumstances where the employer has simply ceased trading and has terminated the claimants' employment.

3. None of the named respondents or any combination of them have entered a response to the complaints brought against them. I have heard evidence from each claimant, with the exception of Mrs J McKenry and as a result of their uncontested account I have made my findings of fact.

4. Mrs Brazier began employment with the respondents on 21 July 1992 as a bakery cleaner, Miss Walsh began employment on 15 April 2000 and Mrs Edgington as a Shop Manager at the Market Street shop in Hednesford on 22 July 1988, Mr B Taylor began employment as the Driver Assistant Baker working at the Wood Lane bakery on 9 November 1993 and Mrs J McKenry on 17 June 1986. It is starkly disappointing that such long serving employees were subject to the treatment by the respondents that they were. The claimants all worked for a good length of time with the previous owners of the respondent business, Mr Philip Tennant and Mrs Jane Tennant, who had spoken to their employees informing them that they were looking to sell the business in 2014. They had hoped that there would be a completion date on 30 September 2014 to transfer the business to Mr Carl and Mrs Debbie

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

Collins. In the event the claimants were given to understand that Mr and Mrs Collins chose to have the business put into the name of their daughter, Ms Melissa Collins, and the claimant were told that the sale of the business from Mr & Mrs Tennant to Ms Melissa Collins took place on Friday 24 October 2014. Notice confirming the change of the employer was posted for all staff members of Tennants Craft Bakery and was posted on the notice board. The claimant were informed that their employment was transferred to Ms Melissa Collins who continued to trade as Tennants Craft Bakery as identified in the notice (p.51). It would seem that Ms Collins initially managed, as well as owned, the bakery (p.52) writing to Mr Taylor identifying the rota systems. However, it would seem from all of the evidence I have heard from the four witnesses who gave evidence; Mrs Brazier, Mrs Edgington, Mr Taylor and Ms Walsh, that Ms Collins' interest in the bakery waned and her mother, Debbie Collins who worked as the administrator at the Wood Lane site and her father Mr Carl Collins, who increasingly increasingly managed the operation at all of the sites. Indeed Mrs Debbie Collins I am told was the tenant on a lease that was forfeited on non-payment of the rent and Mrs Edgington who was the Store Manager at the Market Street Bakers Shop was informed of that fact by the landlord when the shutters were put up on the closure of that shop on 20 November 2015.

5. One of the many issues I have to decide in this case is who was the employer of each of the claimants. Based upon the best information that has been given to me, although that is limited, it is apparent that Ms Melissa Collins from time to time when funds were low wrote personal cheques to pay salaries for a number of the employees as confirmed by Mrs Brazier's bank statements to that effect. Pay advice slips were issued to employees in the trading name of Tennants Craft Bakery. In the circumstances given Mrs Debbie Collins' management and day-to-day organisation of the business and the involvement in the running of the business by Mr Carl Tennant, it would appear that Tennants Craft Bakery was a family run business that had been put into the name of Melissa Collins and the owners of the business would appear in those circumstances to be jointly Melissa Collins, Debbie Collins and Carl Collins who I find to be jointly and severally liable as employers of each of the five claimants in this case.

6. Mrs McKenry has not attended the tribunal hearing to give evidence today. She relies upon the written documentation that she has submitted. At first glance Mrs McKenry's application to the tribunal would appear not to have been presented in time. Her employment terminated on 16 April 2016. She referred the case for early conciliation to ACAS on 17 June. A certificate was issued on 12 July and her claim was validly presented to the Employment Tribunal on 16 September. Further enquiries identified that the claim was

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

originally presented on 12 August 2016 but was not accompanied by the fee that was then due. It is clear however that Mrs McKenry's husband was at that time in hospital and the claimant did not have access to the internet but when she did she resubmitted her complaint which was presented on 16 September 2016. In light of the written representations that I have received I find in the circumstances it was not reasonably practicable for her to have presented a complaint within 3 months of the termination of her employment allowing for the adjusted dates with early conciliation. However, it was presented within such time as I consider reasonable and I find the tribunal has jurisdiction to entertain her complaint. I have considered the law in relation to presentation of complaints to an Employment Tribunal consistent with the provisions of s111(2) of the Employment Rights Act 1996.

7. Section 111(2) Employment Rights Act 1996 provides that a tribunal shall not consider a complaint that an employee was unfairly dismissed unless it is presented to the tribunal

(a) before the end of the period of three months beginning with the effective date of termination or

(b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for a complaint to be presented before the end of that period of three months.

The expression "not reasonably practicable" has been the subject of considerable judicial interpretation. I have considered the following authorities:-

Dedman -v- British Building and Engineering Applicances Ltd [1973] IRLR 379 CA

Walls Meat Co Ltdv Khan [1979] ICR 52,CA

Marks & Spencer Plc -v- Williams-Ryan [2005] IRLR 563 CA

Consignia Plc -v- Sealy [2002]IRLR 624 (CA)

Initial Electronic Security Systems Ltd -v- Miss A Avdic UK EAT – 0281 -05

Camden & Islington Community Services NHS Trust -v- Kennedy [1996] IRLR 381

Capital Foods Retail Ltd -v- Corrigan [1993] IRLR 430

Chohan -v Derby Law Centre [2004] IRLR 685

Having regard to the relevant authorities I consider that the complaint was not presented in time, it was not reasonably practicable for her to have done so. I find however it was presented within such further period as I consider to have been reasonable in the facts of the case.

8. Mrs Edgington's case is slightly different to that of the remaining four claimants. She was employed as a Shop Manager working at the Market

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

Street Bakery. She attended for work as she would have normally on 25 November 2015 to find that the premises was closed and that a notice had been placed on the door by the landlord as it had been seized by the landlord as a result of non-payment of rent by Debbie Collins who was the tenant. Mrs Edgington sought to pursue the respondents for her redundancy payment which was not forthcoming from them and following advice from ACAS she made a request that the Redundancy Payments Office through the Secretary of State should pay her redundancy entitlement. Sadly because Ms Melissa Collins trading as Tennants Craft Bakery was not bankrupt and the business was not insolvent payment was not made. Mrs Edgington latterly received confirmation from that service on 2 June 2016 that she would have to pursue her employer for the redundancy payment through the Employment Tribunal to get a judgment to the effect that her redundancy payment was rightly hers. A complaint was presented to the tribunal on 15 August 2016 within the extended time period of an additional 3 months from the time of the Secretary of State's decision. In the circumstances I find that the tribunal has jurisdiction to entertain the complaint.

9. Turning to the events that affected the remaining four claimants, the employees who worked at the bakery based at Wood Lane, Hednesford. The employees had been told that the Collins family were looking to relocate to more suitable premises and indeed the claimants have been led to believe that those premises would be to a location within Cannock in a place called Four Ashes. Mr Taylor understood that it might have been on an industrial estate but although he thought it was somewhat out of the way, he and indeed I have no doubt the other employees would have relocated to work at such a location. In the event on Saturday 16 April 2016 a number of articulated lorries attended at the Bakery, which baked bread as well as sold it at a small retail unit that in latter months had been closed. Towards the end of the morning, at around about 9.00am, the bakery, having opened much earlier to bake the bread, the ovens were taken away. Mr Taylor says that the transport lorries set off in the northerly direction and in fact the respondent business did not relocate to Four Ashes or anywhere locally.

10. The claimants were led to believe that the Collins family had relocated to an operation in Macclesfield. The claimants understood that the business had been sold to Basingtons Bakery Ltd, however, that party was sent correspondence from the tribunal and their response was that none of the employees were employed by that business nor had they any knowledge of the Tennants Craft Bakery. In the circumstances it is evident that the operation of a bakery at Wood Lane, Hednesford by Tennants Craft Bakery ceased with immediate effect on 16 April 2016. Sadly the respondents whether Melissa or Debbie Collins or indeed anyone within the family who

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

worked in the business deliberately appears to have misled the claimants as to their future employment. On 16 April 2016 the Collins family members had indicated that they would be in touch by text telling the claimants who had remained in their employment, where to go to work the following week. However no such text was received by any of the employees nor did any of the Collins family communicate with the claimants. The respondent behaved in much the way as they had ceased to communicate with Ms Edgington when her employment was summarily terminated in November 2015.

11. I find that the respondents have abjectly failed to comply with any of the standards of good industrial practice as commended by ACAS and although the employment was terminated by reason of redundancy on closure of the business that the Collins family operated and traded as Tennants Craft Bakery it was without doubt an unfair dismissal.

12. Mr Taylor is the only claimant who has claimed within time that he has been unfairly dismissed by the respondents. Mr Blitz acting on behalf of Mr Taylor, the only represented claimant, has indicated that in light of all the circumstances and in light of the redundancy situation on the closure of the business that was operated at Wood Lane it was not intended to pursue an unfair dismissal complaint at this hearing although the claim had originally been brought as such. The claim of unfair dismissal is dismissed on the withdrawal.

13. Having heard the evidence and in light of all of my findings I find that the employees were employed by Tennants Craft Bakery, a business trading under that name that was owned by the Collins family. The claimants were variously told that Melissa Collins was the owner and that Debbie Collins was a Manager having an interest in the business and Carl Collins assisted in the day to day running of the business. Absent any contractual documentation that was provided to the claimants by their employer I find those three individuals as family members of the Collins family who from time to time engaged in the management of the business were de facto jointly and severally liable as owners of the business at the relevant time.

14. Turning to the individual complaints I make the following findings of fact and in conclusion reach the judgments and award compensation as set out below.

Mrs Brazier

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. With regard to Mrs Brazier, I find that she was dismissed by reason of redundancy on 16 April 2016 and she is entitled to a statutory redundancy payment in the sum of £3,886.00.

2. I find that the respondents made an unlawful deduction from her wages in the sum of £144.00.

3. The respondents failed to pay the claimant her statutory notice period or payment in lieu thereof. Her net pay was £144.00 per week and her entitlement over a 12 week statutory notice period is £1,728.00.

4. The respondents failed to pay to the claimant her accrued and untaken holiday entitlement in the sum of 33 hours accruing at the national minimum wage of £7.20 from 5 April in the sum of £237.60.

5. I find the respondents abjectly failed to comply with the ACAS Code of Practice and the awards that I have made to the claimant are uplifted by 25% in accordance with the provisions of section 124A of the Employment Rights Act by the sum of £1,498.90.

6. In the circumstances I award payment of both the issue and the Hearing fee to the claimant to be paid by the respondents in the sum of £390.00.

Mrs Walsh

1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment having regard to her age of 62, 16 years service and a gross week's pay of £227.80 in the sum of £5,467.00.

2. The respondents made unlawful deductions from the claimant's pay and the respondent is ordered to pay to the claimant the sum of £370.00.

3. The respondent failed to comply with the ACAS code and in accordance with the provisions of section 124A of the Employment Rights Act 1996, I order that the payments to which the claimant is entitled be uplifted by 25% in the sum of £1,459.25. The respondent is ordered to pay the fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

Mrs Edgington

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. The claimant was dismissed by the respondents by reason of redundancy and having regard to her age of 42 having more than 20 years service her statutory redundancy entitlement is £271.00 by 15.5, a total redundancy payment of £4,200.00.

2. The respondents failed to observe the ACAS code and I award a 25% uplift of the sums to which the claimant is entitled in accordance with the provisions of section 124A of the Employment Rights Act 1996, an uplift in the sum of £1,459.00.

3. The respondent is ordered to pay fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

Mr Taylor

1. Mr Taylor originally pursued a complaint that he was unfairly dismissed by the respondents as well as a number of other complaints. Mr Blitz on behalf of the claimant has confirmed today that the claimant does not wish to pursue an unfair dismissal complaint acknowledging that the reason for termination of his employment was redundancy, a potentially fair reason for dismissal. In the circumstances the claim for unfair dismissal is dismissed.

2. The claimant is entitled to a statutory redundancy payment based upon the claimant's age and more than 20 years of service and a gross weekly pay of £160.80 in the total sum of £4,824.00.

3. The respondents failed to pay the claimant his statutory entitlement to notice or payment in lieu thereof, a statutory entitlement of £1,920.00.

4. The respondents failed to provide to the claimant a section 1 statement of change of terms and conditions of employment and I award 4 weeks' pay in the gross sum of £160.80, a total of £443.20.

5. The respondents failed abjectly to comply with the ACAS code and I award an uplift of the compensation payments of 25% in accordance to the provisions of section 124A of the Employment Rights Act 1996, an uplift of £1,686.00.

6. The respondent is ordered to pay fees incurred by the claimant in the issue of these proceedings £250.00 and an issue fee incurred for the unfair dismissal in the sum of £950.00, a total sum of £1,200.00

Mrs J McKenry

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. The claimant is entitled to a statutory redundancy pay based upon her age of 62 years, 20 years continuous employment and a gross weekly wage of £199.00, a redundancy payment of £5,970.00.

2. The respondent is ordered to pay to the claimant compensation in lieu of her statutory notice period of 12 weeks' pay at £194.00 net, a total of £2,328.00.

3. The respondents made unlawful deductions from the claimant's pay in respect of a week in hand in the sum of £194.00.

4. The respondent failed to pay to the claimant her accrued entitlement to holiday pay in respect of 54 hours in the total sum of £388.00.

5. The respondents failed to observe the ACAS code and in accordance to the provisions of section 124A of the Employment Rights Act 1996, I award an uplift in the compensation award of 25%, the total sum of £2,220.00.

6. The respondent is required to pay the claimant's fees in the total sum of £390.00

Employment Judge Dean
22 May 2017

Judgment sent to Parties on
23 May 2017

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016



VCD

EMPLOYMENT TRIBUNALS

Claimant

Respondent

(1) Mrs J Brazier

(2) Mrs M Edgington

(3) Mr B Taylor

(4) Miss C Walsh

(5) Mrs J McKenry

v R1) Tennants Craft Bakery

**(R2) Mrs Debbie Collins t/a Tennants
Craft Bakery**

**(R3) Mr Carl Collins t/a Tennants Craft
Bakery**

**(R4) Miss Melissa Collins t/a Tennants
Craft Bakery**

(R5) Tennants Craft Bakery Limited

Heard at: Birmingham

On: 28 November 2016

Before: Employment Judge Dean

Appearances:

For Claimants

(1) Mrs J Brazier: in person

(2) Mrs M Edgington: in person

(3) Mr B Taylor : Mr Blitz (acting on behalf for Mr Taylor)

(4) Miss C Walsh: in person

(5) Mrs J McKenry: no attendance, written submissions

For Respondents: No appearance

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

JUDGMENT

The judgment of the Tribunal is that the claimants and each of them were employed by the First, Second and Third Respondents jointly and severally trading as Tenants Craft Bakery.

1 Mrs J Brazier: Case Number 1301817/2016

1.1. Mrs Brazier was dismissed by reason of redundancy on 16 April 2016 and she is entitled to a statutory redundancy payment in the sum of £3,886.00.

1.2. The respondents made an unlawful deduction from the claimant's wages in the sum of £144.00. The respondent is ordered to pay the claimant the sum of £144.00.

1.3. The respondents failed to pay the claimant her statutory notice period or payment in lieu thereof. Her net pay was £144.00 per week and her entitlement over a 12 week statutory notice period is £1,728.00. The respondent is ordered to pay the claimant damages in the sum of £1,728.00.

1.4. The respondents failed to pay to the claimant her accrued and untaken holiday entitlement in the sum of 33 hours accruing at the national minimum wage of £7.20 from 5 April in the sum of £237.60. The respondent is ordered to pay to the claimant the sum of £237.60.

1.5. The respondent having failed to comply with the ACAS Code of Practice the awards at paragraphs 1.1 - 1.4 that I have made to the claimant are uplifted by 25% in accordance with the provisions of section 124A of the Employment Rights Act in the sum of £1,498.90. The respondent is ordered to pay to the claimant the further sum of £1498.90.

1.6. In the circumstances I award payment of both the issue and the Hearing fee to the claimant to be paid by the respondents in the sum of £390.00.

1.7 The respondent is ordered to pay compensation to the claimant in the grand total sum of £7494.50 in addition to fees in the sum of £390.00.

2 Mrs Edgington: Case Number 1302284/2016

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

2.1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment of £4,200.00.

2.2. The respondents failed to observe the ACAS code and I award a 25% uplift of the sums to which the claimant is entitled in accordance with the provisions of section 124A of the Employment Rights Act 1996, an uplift in the sum of £1,459.00.

2.3. The respondent is ordered to pay fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

2.4. The respondent is ordered to pay compensation to the claimant in the grand total sum of £5,659.00 in addition to fees in the sum of £390.00.

3 Mr B Taylor: Case Number 1302284/2016

3.1. Mr Taylor's complaint of unfair dismissal is withdrawn and stands dismissed.

3.2. The claimant was dismissed by reason of redundancy and is entitled to a statutory redundancy payment in the total sum of £4,824.00.

3.3. The respondents failed to pay the claimant his statutory entitlement to notice or payment in lieu thereof, a statutory entitlement of £1,920.00. The respondent is ordered to pay damages in the sum of £1,920.00.

3.4. The respondents failed to provide to the claimant a section 1 statement of change of terms and conditions of employment. The respondent is ordered to pay to the claimant compensation in the gross sum of £643.20.

3.5. The respondents failed to comply with the ACAS code and I award an uplift of the compensation payments of 25% in accordance to the provisions of section 124A of the Employment Rights Act 1996, an uplift of £1,686.00.

3.6. The respondent is ordered to pay fees incurred by the claimant in the issue of these proceedings £250.00 and an issue fee incurred for the unfair dismissal in the sum of £950.00, a total sum of £1,200.00

3.7. The respondent is ordered to pay compensation to the claimant in the grand total sum of £9,073.20 in addition to fees in the sum of £1,200.00.

4 Miss C Walsh: Case Number 1301759/2016

4.1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment in the sum of £5,467.00.

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

4.2. The respondents made unlawful deductions from the claimant's pay and the respondent is ordered to pay to the claimant the sum of £370.00.

4.3. The respondent failed to comply with the ACAS code and, in accordance with the provisions of section 124A of the Employment Rights Act 1996, I order that the payments to which the claimant is entitled be uplifted by 25% in the sum of £1,459.25.

4.4 The respondent is ordered to pay the fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

4.5 The respondent is ordered to pay compensation to the claimant in the grand total sum of £7,296.00 in addition to fees in the sum of £390.00.

5. Mrs J McKenry: Case Number 1302362/2016

5.1. The claimant is entitled to a statutory redundancy payment of £5,970.00.

5.2. The respondent is ordered to pay to the claimant compensation in lieu of her statutory notice period of 12 weeks' pay at £194.00 net, a total of £2,328.00. The respondent is ordered to pay to the claimant damages in the sum of £2,328.00.

5.3. The respondent made unlawful deductions from the claimant's pay in respect of a week in hand in the sum of £194.00. The respondent is ordered to pay to the claimant the sum of £194.00.

5.4. The respondent failed to pay to the claimant her accrued entitlement to holiday pay in respect of 54 hours in the total sum of £388.00. The respondent is ordered to pay to the claimant the sum of £388.00.

5.5. The respondent failed to observe the ACAS code and in accordance to the provisions of section 124A of the Employment Rights Act 1996, I award an uplift in the compensation award of 25%, the total sum of £2,220.00.

5.6. The respondent is required to pay the claimant's fees in the total sum of £390.00.

5.7 The respondent is ordered to pay compensation to the claimant in the grand total sum of £11,100.0 in addition to fees in the sum of £390.00.

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

REASONS

1. The judgment and the reasons for it were announced at the hearing of this case. The parties have requested that reasons for the Judgment be sent to them. I would apologise to the parties for the delay in forwarding the written Judgment and Reasons for it to them. The promulgation of the judgment was initially delayed by my judicial commitments and subsequently in 2017 by my prolonged absence from the Employment Tribunal because of ill health that prevented the judgment and reasons for it being sent to the parties.

2. By way of background the claimants were employed by a business that traded as Tennants Craft Bakery and they had all been long serving employees of the respondents when their employment came to an end unexpectedly when the business at the locations at which they were employed by the respondents ceased trading. In the circumstance Mrs Edgington's employment was terminated on 25 November 2015 and the remaining claimants' employment was terminated on 16 April 2016. The five cases have been consolidated by the Employment Tribunal as they involve the same employer and sadly the same or very similar circumstances where the employer has simply ceased trading and has terminated the claimants' employment.

3. None of the named respondents or any combination of them have entered a response to the complaints brought against them. I have heard evidence from each claimant, with the exception of Mrs J McKenry and as a result of their uncontested account I have made my findings of fact.

4. Mrs Brazier began employment with the respondents on 21 July 1992 as a bakery cleaner, Miss Walsh began employment on 15 April 2000 and Mrs Edgington as a Shop Manager at the Market Street shop in Hednesford on 22 July 1988, Mr B Taylor began employment as the Driver Assistant Baker working at the Wood Lane bakery on 9 November 1993 and Mrs J McKenry on 17 June 1986. It is starkly disappointing that such long serving employees were subject to the treatment by the respondents that they were. The claimants all worked for a good length of time with the previous owners of the respondent business, Mr Philip Tennant and Mrs Jane Tennant, who had spoken to their employees informing them that they were looking to sell the business in 2014. They had hoped that there would be a completion date on 30 September 2014 to transfer the business to Mr Carl and Mrs Debbie

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

Collins. In the event the claimants were given to understand that Mr and Mrs Collins chose to have the business put into the name of their daughter, Ms Melissa Collins, and the claimant were told that the sale of the business from Mr & Mrs Tennant to Ms Melissa Collins took place on Friday 24 October 2014. Notice confirming the change of the employer was posted for all staff members of Tennants Craft Bakery and was posted on the notice board. The claimant were informed that their employment was transferred to Ms Melissa Collins who continued to trade as Tennants Craft Bakery as identified in the notice (p.51). It would seem that Ms Collins initially managed, as well as owned, the bakery (p.52) writing to Mr Taylor identifying the rota systems. However, it would seem from all of the evidence I have heard from the four witnesses who gave evidence; Mrs Brazier, Mrs Edgington, Mr Taylor and Ms Walsh, that Ms Collins' interest in the bakery waned and her mother, Debbie Collins who worked as the administrator at the Wood Lane site and her father Mr Carl Collins, who increasingly increasingly managed the operation at all of the sites. Indeed Mrs Debbie Collins I am told was the tenant on a lease that was forfeited on non-payment of the rent and Mrs Edgington who was the Store Manager at the Market Street Bakers Shop was informed of that fact by the landlord when the shutters were put up on the closure of that shop on 20 November 2015.

5. One of the many issues I have to decide in this case is who was the employer of each of the claimants. Based upon the best information that has been given to me, although that is limited, it is apparent that Ms Melissa Collins from time to time when funds were low wrote personal cheques to pay salaries for a number of the employees as confirmed by Mrs Brazier's bank statements to that effect. Pay advice slips were issued to employees in the trading name of Tennants Craft Bakery. In the circumstances given Mrs Debbie Collins' management and day-to-day organisation of the business and the involvement in the running of the business by Mr Carl Tennant, it would appear that Tennants Craft Bakery was a family run business that had been put into the name of Melissa Collins and the owners of the business would appear in those circumstances to be jointly Melissa Collins, Debbie Collins and Carl Collins who I find to be jointly and severally liable as employers of each of the five claimants in this case.

6. Mrs McKenry has not attended the tribunal hearing to give evidence today. She relies upon the written documentation that she has submitted. At first glance Mrs McKenry's application to the tribunal would appear not to have been presented in time. Her employment terminated on 16 April 2016. She referred the case for early conciliation to ACAS on 17 June. A certificate was issued on 12 July and her claim was validly presented to the Employment Tribunal on 16 September. Further enquiries identified that the claim was

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

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(5) 1302362/2016

originally presented on 12 August 2016 but was not accompanied by the fee that was then due. It is clear however that Mrs McKenry's husband was at that time in hospital and the claimant did not have access to the internet but when she did she resubmitted her complaint which was presented on 16 September 2016. In light of the written representations that I have received I find in the circumstances it was not reasonably practicable for her to have presented a complaint within 3 months of the termination of her employment allowing for the adjusted dates with early conciliation. However, it was presented within such time as I consider reasonable and I find the tribunal has jurisdiction to entertain her complaint. I have considered the law in relation to presentation of complaints to an Employment Tribunal consistent with the provisions of s111(2) of the Employment Rights Act 1996.

7. Section 111(2) Employment Rights Act 1996 provides that a tribunal shall not consider a complaint that an employee was unfairly dismissed unless it is presented to the tribunal

(a) before the end of the period of three months beginning with the effective date of termination or

(b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for a complaint to be presented before the end of that period of three months.

The expression "not reasonably practicable" has been the subject of considerable judicial interpretation. I have considered the following authorities:-

Dedman -v- British Building and Engineering Applicances Ltd [1973] IRLR 379 CA

Walls Meat Co Ltdv Khan [1979] ICR 52,CA

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Initial Electronic Security Systems Ltd -v- Miss A Avdic UK EAT – 0281 -05

Camden & Islington Community Services NHS Trust -v- Kennedy [1996] IRLR 381

Capital Foods Retail Ltd -v- Corrigan [1993] IRLR 430

Chohan -v Derby Law Centre [2004] IRLR 685

Having regard to the relevant authorities I consider that the complaint was not presented in time, it was not reasonably practicable for her to have done so. I find however it was presented within such further period as I consider to have been reasonable in the facts of the case.

8. Mrs Edgington's case is slightly different to that of the remaining four claimants. She was employed as a Shop Manager working at the Market

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

Street Bakery. She attended for work as she would have normally on 25 November 2015 to find that the premises was closed and that a notice had been placed on the door by the landlord as it had been seized by the landlord as a result of non-payment of rent by Debbie Collins who was the tenant. Mrs Edgington sought to pursue the respondents for her redundancy payment which was not forthcoming from them and following advice from ACAS she made a request that the Redundancy Payments Office through the Secretary of State should pay her redundancy entitlement. Sadly because Ms Melissa Collins trading as Tennants Craft Bakery was not bankrupt and the business was not insolvent payment was not made. Mrs Edgington latterly received confirmation from that service on 2 June 2016 that she would have to pursue her employer for the redundancy payment through the Employment Tribunal to get a judgment to the effect that her redundancy payment was rightly hers. A complaint was presented to the tribunal on 15 August 2016 within the extended time period of an additional 3 months from the time of the Secretary of State's decision. In the circumstances I find that the tribunal has jurisdiction to entertain the complaint.

9. Turning to the events that affected the remaining four claimants, the employees who worked at the bakery based at Wood Lane, Hednesford. The employees had been told that the Collins family were looking to relocate to more suitable premises and indeed the claimants have been led to believe that those premises would be to a location within Cannock in a place called Four Ashes. Mr Taylor understood that it might have been on an industrial estate but although he thought it was somewhat out of the way, he and indeed I have no doubt the other employees would have relocated to work at such a location. In the event on Saturday 16 April 2016 a number of articulated lorries attended at the Bakery, which baked bread as well as sold it at a small retail unit that in latter months had been closed. Towards the end of the morning, at around about 9.00am, the bakery, having opened much earlier to bake the bread, the ovens were taken away. Mr Taylor says that the transport lorries set off in the northerly direction and in fact the respondent business did not relocate to Four Ashes or anywhere locally.

10. The claimants were led to believe that the Collins family had relocated to an operation in Macclesfield. The claimants understood that the business had been sold to Basingtons Bakery Ltd, however, that party was sent correspondence from the tribunal and their response was that none of the employees were employed by that business nor had they any knowledge of the Tennants Craft Bakery. In the circumstances it is evident that the operation of a bakery at Wood Lane, Hednesford by Tennants Craft Bakery ceased with immediate effect on 16 April 2016. Sadly the respondents whether Melissa or Debbie Collins or indeed anyone within the family who

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

worked in the business deliberately appears to have misled the claimants as to their future employment. On 16 April 2016 the Collins family members had indicated that they would be in touch by text telling the claimants who had remained in their employment, where to go to work the following week. However no such text was received by any of the employees nor did any of the Collins family communicate with the claimants. The respondent behaved in much the way as they had ceased to communicate with Ms Edgington when her employment was summarily terminated in November 2015.

11. I find that the respondents have abjectly failed to comply with any of the standards of good industrial practice as commended by ACAS and although the employment was terminated by reason of redundancy on closure of the business that the Collins family operated and traded as Tennants Craft Bakery it was without doubt an unfair dismissal.

12. Mr Taylor is the only claimant who has claimed within time that he has been unfairly dismissed by the respondents. Mr Blitz acting on behalf of Mr Taylor, the only represented claimant, has indicated that in light of all the circumstances and in light of the redundancy situation on the closure of the business that was operated at Wood Lane it was not intended to pursue an unfair dismissal complaint at this hearing although the claim had originally been brought as such. The claim of unfair dismissal is dismissed on the withdrawal.

13. Having heard the evidence and in light of all of my findings I find that the employees were employed by Tennants Craft Bakery, a business trading under that name that was owned by the Collins family. The claimants were variously told that Melissa Collins was the owner and that Debbie Collins was a Manager having an interest in the business and Carl Collins assisted in the day to day running of the business. Absent any contractual documentation that was provided to the claimants by their employer I find those three individuals as family members of the Collins family who from time to time engaged in the management of the business were de facto jointly and severally liable as owners of the business at the relevant time.

14. Turning to the individual complaints I make the following findings of fact and in conclusion reach the judgments and award compensation as set out below.

Mrs Brazier

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. With regard to Mrs Brazier, I find that she was dismissed by reason of redundancy on 16 April 2016 and she is entitled to a statutory redundancy payment in the sum of £3,886.00.

2. I find that the respondents made an unlawful deduction from her wages in the sum of £144.00.

3. The respondents failed to pay the claimant her statutory notice period or payment in lieu thereof. Her net pay was £144.00 per week and her entitlement over a 12 week statutory notice period is £1,728.00.

4. The respondents failed to pay to the claimant her accrued and untaken holiday entitlement in the sum of 33 hours accruing at the national minimum wage of £7.20 from 5 April in the sum of £237.60.

5. I find the respondents abjectly failed to comply with the ACAS Code of Practice and the awards that I have made to the claimant are uplifted by 25% in accordance with the provisions of section 124A of the Employment Rights Act by the sum of £1,498.90.

6. In the circumstances I award payment of both the issue and the Hearing fee to the claimant to be paid by the respondents in the sum of £390.00.

Mrs Walsh

1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment having regard to her age of 62, 16 years service and a gross week's pay of £227.80 in the sum of £5,467.00.

2. The respondents made unlawful deductions from the claimant's pay and the respondent is ordered to pay to the claimant the sum of £370.00.

3. The respondent failed to comply with the ACAS code and in accordance with the provisions of section 124A of the Employment Rights Act 1996, I order that the payments to which the claimant is entitled be uplifted by 25% in the sum of £1,459.25. The respondent is ordered to pay the fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

Mrs Edgington

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. The claimant was dismissed by the respondents by reason of redundancy and having regard to her age of 42 having more than 20 years service her statutory redundancy entitlement is £271.00 by 15.5, a total redundancy payment of £4,200.00.

2. The respondents failed to observe the ACAS code and I award a 25% uplift of the sums to which the claimant is entitled in accordance with the provisions of section 124A of the Employment Rights Act 1996, an uplift in the sum of £1,459.00.

3. The respondent is ordered to pay fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

Mr Taylor

1. Mr Taylor originally pursued a complaint that he was unfairly dismissed by the respondents as well as a number of other complaints. Mr Blitz on behalf of the claimant has confirmed today that the claimant does not wish to pursue an unfair dismissal complaint acknowledging that the reason for termination of his employment was redundancy, a potentially fair reason for dismissal. In the circumstances the claim for unfair dismissal is dismissed.

2. The claimant is entitled to a statutory redundancy payment based upon the claimant's age and more than 20 years of service and a gross weekly pay of £160.80 in the total sum of £4,824.00.

3. The respondents failed to pay the claimant his statutory entitlement to notice or payment in lieu thereof, a statutory entitlement of £1,920.00.

4. The respondents failed to provide to the claimant a section 1 statement of change of terms and conditions of employment and I award 4 weeks' pay in the gross sum of £160.80, a total of £443.20.

5. The respondents failed abjectly to comply with the ACAS code and I award an uplift of the compensation payments of 25% in accordance to the provisions of section 124A of the Employment Rights Act 1996, an uplift of £1,686.00.

6. The respondent is ordered to pay fees incurred by the claimant in the issue of these proceedings £250.00 and an issue fee incurred for the unfair dismissal in the sum of £950.00, a total sum of £1,200.00

Mrs J McKenry

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. The claimant is entitled to a statutory redundancy pay based upon her age of 62 years, 20 years continuous employment and a gross weekly wage of £199.00, a redundancy payment of £5,970.00.

2. The respondent is ordered to pay to the claimant compensation in lieu of her statutory notice period of 12 weeks' pay at £194.00 net, a total of £2,328.00.

3. The respondents made unlawful deductions from the claimant's pay in respect of a week in hand in the sum of £194.00.

4. The respondent failed to pay to the claimant her accrued entitlement to holiday pay in respect of 54 hours in the total sum of £388.00.

5. The respondents failed to observe the ACAS code and in accordance to the provisions of section 124A of the Employment Rights Act 1996, I award an uplift in the compensation award of 25%, the total sum of £2,220.00.

6. The respondent is required to pay the claimant's fees in the total sum of £390.00

Employment Judge Dean
22 May 2017

Judgment sent to Parties on
23 May 2017

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016



VCD

EMPLOYMENT TRIBUNALS

Claimant

Respondent

(1) Mrs J Brazier

(2) Mrs M Edgington

(3) Mr B Taylor

(4) Miss C Walsh

(5) Mrs J McKenry

v R1) Tennants Craft Bakery

**(R2) Mrs Debbie Collins t/a Tennants
Craft Bakery**

**(R3) Mr Carl Collins t/a Tennants Craft
Bakery**

**(R4) Miss Melissa Collins t/a Tennants
Craft Bakery**

(R5) Tennants Craft Bakery Limited

Heard at: Birmingham

On: 28 November 2016

Before: Employment Judge Dean

Appearances:

For Claimants

(1) Mrs J Brazier: in person

(2) Mrs M Edgington: in person

(3) Mr B Taylor : Mr Blitz (acting on behalf for Mr Taylor)

(4) Miss C Walsh: in person

(5) Mrs J McKenry: no attendance, written submissions

For Respondents: No appearance

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

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(4) 1301759/2016

(5) 1302362/2016

JUDGMENT

The judgment of the Tribunal is that the claimants and each of them were employed by the First, Second and Third Respondents jointly and severally trading as Tenants Craft Bakery.

1 Mrs J Brazier: Case Number 1301817/2016

1.1. Mrs Brazier was dismissed by reason of redundancy on 16 April 2016 and she is entitled to a statutory redundancy payment in the sum of £3,886.00.

1.2. The respondents made an unlawful deduction from the claimant's wages in the sum of £144.00. The respondent is ordered to pay the claimant the sum of £144.00.

1.3. The respondents failed to pay the claimant her statutory notice period or payment in lieu thereof. Her net pay was £144.00 per week and her entitlement over a 12 week statutory notice period is £1,728.00. The respondent is ordered to pay the claimant damages in the sum of £1,728.00.

1.4. The respondents failed to pay to the claimant her accrued and untaken holiday entitlement in the sum of 33 hours accruing at the national minimum wage of £7.20 from 5 April in the sum of £237.60. The respondent is ordered to pay to the claimant the sum of £237.60.

1.5. The respondent having failed to comply with the ACAS Code of Practice the awards at paragraphs 1.1 - 1.4 that I have made to the claimant are uplifted by 25% in accordance with the provisions of section 124A of the Employment Rights Act in the sum of £1,498.90. The respondent is ordered to pay to the claimant the further sum of £1498.90.

1.6. In the circumstances I award payment of both the issue and the Hearing fee to the claimant to be paid by the respondents in the sum of £390.00.

1.7 The respondent is ordered to pay compensation to the claimant in the grand total sum of £7494.50 in addition to fees in the sum of £390.00.

2 Mrs Edgington: Case Number 1302284/2016

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

2.1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment of £4,200.00.

2.2. The respondents failed to observe the ACAS code and I award a 25% uplift of the sums to which the claimant is entitled in accordance with the provisions of section 124A of the Employment Rights Act 1996, an uplift in the sum of £1,459.00.

2.3. The respondent is ordered to pay fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

2.4. The respondent is ordered to pay compensation to the claimant in the grand total sum of £5,659.00 in addition to fees in the sum of £390.00.

3 Mr B Taylor: Case Number 1302284/2016

3.1. Mr Taylor's complaint of unfair dismissal is withdrawn and stands dismissed.

3.2. The claimant was dismissed by reason of redundancy and is entitled to a statutory redundancy payment in the total sum of £4,824.00.

3.3. The respondents failed to pay the claimant his statutory entitlement to notice or payment in lieu thereof, a statutory entitlement of £1,920.00. The respondent is ordered to pay damages in the sum of £1,920.00.

3.4. The respondents failed to provide to the claimant a section 1 statement of change of terms and conditions of employment. The respondent is ordered to pay to the claimant compensation in the gross sum of £643.20.

3.5. The respondents failed to comply with the ACAS code and I award an uplift of the compensation payments of 25% in accordance to the provisions of section 124A of the Employment Rights Act 1996, an uplift of £1,686.00.

3.6. The respondent is ordered to pay fees incurred by the claimant in the issue of these proceedings £250.00 and an issue fee incurred for the unfair dismissal in the sum of £950.00, a total sum of £1,200.00

3.7. The respondent is ordered to pay compensation to the claimant in the grand total sum of £9,073.20 in addition to fees in the sum of £1,200.00.

4 Miss C Walsh: Case Number 1301759/2016

4.1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment in the sum of £5,467.00.

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

4.2. The respondents made unlawful deductions from the claimant's pay and the respondent is ordered to pay to the claimant the sum of £370.00.

4.3. The respondent failed to comply with the ACAS code and, in accordance with the provisions of section 124A of the Employment Rights Act 1996, I order that the payments to which the claimant is entitled be uplifted by 25% in the sum of £1,459.25.

4.4 The respondent is ordered to pay the fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

4.5 The respondent is ordered to pay compensation to the claimant in the grand total sum of £7,296.00 in addition to fees in the sum of £390.00.

5. Mrs J McKenry: Case Number 1302362/2016

5.1. The claimant is entitled to a statutory redundancy payment of £5,970.00.

5.2. The respondent is ordered to pay to the claimant compensation in lieu of her statutory notice period of 12 weeks' pay at £194.00 net, a total of £2,328.00. The respondent is ordered to pay to the claimant damages in the sum of £2,328.00.

5.3. The respondent made unlawful deductions from the claimant's pay in respect of a week in hand in the sum of £194.00. The respondent is ordered to pay to the claimant the sum of £194.00.

5.4. The respondent failed to pay to the claimant her accrued entitlement to holiday pay in respect of 54 hours in the total sum of £388.00. The respondent is ordered to pay to the claimant the sum of £388.00.

5.5. The respondent failed to observe the ACAS code and in accordance to the provisions of section 124A of the Employment Rights Act 1996, I award an uplift in the compensation award of 25%, the total sum of £2,220.00.

5.6. The respondent is required to pay the claimant's fees in the total sum of £390.00.

5.7 The respondent is ordered to pay compensation to the claimant in the grand total sum of £11,100.0 in addition to fees in the sum of £390.00.

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REASONS

1. The judgment and the reasons for it were announced at the hearing of this case. The parties have requested that reasons for the Judgment be sent to them. I would apologise to the parties for the delay in forwarding the written Judgment and Reasons for it to them. The promulgation of the judgment was initially delayed by my judicial commitments and subsequently in 2017 by my prolonged absence from the Employment Tribunal because of ill health that prevented the judgment and reasons for it being sent to the parties.

2. By way of background the claimants were employed by a business that traded as Tennants Craft Bakery and they had all been long serving employees of the respondents when their employment came to an end unexpectedly when the business at the locations at which they were employed by the respondents ceased trading. In the circumstance Mrs Edgington's employment was terminated on 25 November 2015 and the remaining claimants' employment was terminated on 16 April 2016. The five cases have been consolidated by the Employment Tribunal as they involve the same employer and sadly the same or very similar circumstances where the employer has simply ceased trading and has terminated the claimants' employment.

3. None of the named respondents or any combination of them have entered a response to the complaints brought against them. I have heard evidence from each claimant, with the exception of Mrs J McKenry and as a result of their uncontested account I have made my findings of fact.

4. Mrs Brazier began employment with the respondents on 21 July 1992 as a bakery cleaner, Miss Walsh began employment on 15 April 2000 and Mrs Edgington as a Shop Manager at the Market Street shop in Hednesford on 22 July 1988, Mr B Taylor began employment as the Driver Assistant Baker working at the Wood Lane bakery on 9 November 1993 and Mrs J McKenry on 17 June 1986. It is starkly disappointing that such long serving employees were subject to the treatment by the respondents that they were. The claimants all worked for a good length of time with the previous owners of the respondent business, Mr Philip Tennant and Mrs Jane Tennant, who had spoken to their employees informing them that they were looking to sell the business in 2014. They had hoped that there would be a completion date on 30 September 2014 to transfer the business to Mr Carl and Mrs Debbie

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Collins. In the event the claimants were given to understand that Mr and Mrs Collins chose to have the business put into the name of their daughter, Ms Melissa Collins, and the claimant were told that the sale of the business from Mr & Mrs Tennant to Ms Melissa Collins took place on Friday 24 October 2014. Notice confirming the change of the employer was posted for all staff members of Tennants Craft Bakery and was posted on the notice board. The claimant were informed that their employment was transferred to Ms Melissa Collins who continued to trade as Tennants Craft Bakery as identified in the notice (p.51). It would seem that Ms Collins initially managed, as well as owned, the bakery (p.52) writing to Mr Taylor identifying the rota systems. However, it would seem from all of the evidence I have heard from the four witnesses who gave evidence; Mrs Brazier, Mrs Edgington, Mr Taylor and Ms Walsh, that Ms Collins' interest in the bakery waned and her mother, Debbie Collins who worked as the administrator at the Wood Lane site and her father Mr Carl Collins, who increasingly increasingly managed the operation at all of the sites. Indeed Mrs Debbie Collins I am told was the tenant on a lease that was forfeited on non-payment of the rent and Mrs Edgington who was the Store Manager at the Market Street Bakers Shop was informed of that fact by the landlord when the shutters were put up on the closure of that shop on 20 November 2015.

5. One of the many issues I have to decide in this case is who was the employer of each of the claimants. Based upon the best information that has been given to me, although that is limited, it is apparent that Ms Melissa Collins from time to time when funds were low wrote personal cheques to pay salaries for a number of the employees as confirmed by Mrs Brazier's bank statements to that effect. Pay advice slips were issued to employees in the trading name of Tennants Craft Bakery. In the circumstances given Mrs Debbie Collins' management and day-to-day organisation of the business and the involvement in the running of the business by Mr Carl Tennant, it would appear that Tennants Craft Bakery was a family run business that had been put into the name of Melissa Collins and the owners of the business would appear in those circumstances to be jointly Melissa Collins, Debbie Collins and Carl Collins who I find to be jointly and severally liable as employers of each of the five claimants in this case.

6. Mrs McKenry has not attended the tribunal hearing to give evidence today. She relies upon the written documentation that she has submitted. At first glance Mrs McKenry's application to the tribunal would appear not to have been presented in time. Her employment terminated on 16 April 2016. She referred the case for early conciliation to ACAS on 17 June. A certificate was issued on 12 July and her claim was validly presented to the Employment Tribunal on 16 September. Further enquiries identified that the claim was

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7. Section 111(2) Employment Rights Act 1996 provides that a tribunal shall not consider a complaint that an employee was unfairly dismissed unless it is presented to the tribunal

(a) before the end of the period of three months beginning with the effective date of termination or

(b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for a complaint to be presented before the end of that period of three months.

The expression "not reasonably practicable" has been the subject of considerable judicial interpretation. I have considered the following authorities:-

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IRLR 379 CA

Walls Meat Co Ltdv Khan [1979] ICR 52,CA

Marks & Spencer Plc -v- Williams-Ryan [2005] IRLR 563 CA

Consignia Plc -v- Sealy [2002]IRLR 624 (CA)

Initial Electronic Security Systems Ltd -v- Miss A Avdic UK EAT – 0281-05

Camden & Islington Community Services NHS Trust -v- Kennedy [1996] IRLR 381

Capital Foods Retail Ltd -v- Corrigan [1993] IRLR 430

Chohan -v Derby Law Centre [2004] IRLR 685

Having regard to the relevant authorities I consider that the complaint was not presented in time, it was not reasonably practicable for her to have done so. I find however it was presented within such further period as I consider to have been reasonable in the facts of the case.

8. Mrs Edgington's case is slightly different to that of the remaining four claimants. She was employed as a Shop Manager working at the Market

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

Street Bakery. She attended for work as she would have normally on 25 November 2015 to find that the premises was closed and that a notice had been placed on the door by the landlord as it had been seized by the landlord as a result of non-payment of rent by Debbie Collins who was the tenant. Mrs Edgington sought to pursue the respondents for her redundancy payment which was not forthcoming from them and following advice from ACAS she made a request that the Redundancy Payments Office through the Secretary of State should pay her redundancy entitlement. Sadly because Ms Melissa Collins trading as Tennants Craft Bakery was not bankrupt and the business was not insolvent payment was not made. Mrs Edgington latterly received confirmation from that service on 2 June 2016 that she would have to pursue her employer for the redundancy payment through the Employment Tribunal to get a judgment to the effect that her redundancy payment was rightly hers. A complaint was presented to the tribunal on 15 August 2016 within the extended time period of an additional 3 months from the time of the Secretary of State's decision. In the circumstances I find that the tribunal has jurisdiction to entertain the complaint.

9. Turning to the events that affected the remaining four claimants, the employees who worked at the bakery based at Wood Lane, Hednesford. The employees had been told that the Collins family were looking to relocate to more suitable premises and indeed the claimants have been led to believe that those premises would be to a location within Cannock in a place called Four Ashes. Mr Taylor understood that it might have been on an industrial estate but although he thought it was somewhat out of the way, he and indeed I have no doubt the other employees would have relocated to work at such a location. In the event on Saturday 16 April 2016 a number of articulated lorries attended at the Bakery, which baked bread as well as sold it at a small retail unit that in latter months had been closed. Towards the end of the morning, at around about 9.00am, the bakery, having opened much earlier to bake the bread, the ovens were taken away. Mr Taylor says that the transport lorries set off in the northerly direction and in fact the respondent business did not relocate to Four Ashes or anywhere locally.

10. The claimants were led to believe that the Collins family had relocated to an operation in Macclesfield. The claimants understood that the business had been sold to Basingtons Bakery Ltd, however, that party was sent correspondence from the tribunal and their response was that none of the employees were employed by that business nor had they any knowledge of the Tennants Craft Bakery. In the circumstances it is evident that the operation of a bakery at Wood Lane, Hednesford by Tennants Craft Bakery ceased with immediate effect on 16 April 2016. Sadly the respondents whether Melissa or Debbie Collins or indeed anyone within the family who

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

worked in the business deliberately appears to have misled the claimants as to their future employment. On 16 April 2016 the Collins family members had indicated that they would be in touch by text telling the claimants who had remained in their employment, where to go to work the following week. However no such text was received by any of the employees nor did any of the Collins family communicate with the claimants. The respondent behaved in much the way as they had ceased to communicate with Ms Edgington when her employment was summarily terminated in November 2015.

11. I find that the respondents have abjectly failed to comply with any of the standards of good industrial practice as commended by ACAS and although the employment was terminated by reason of redundancy on closure of the business that the Collins family operated and traded as Tennants Craft Bakery it was without doubt an unfair dismissal.

12. Mr Taylor is the only claimant who has claimed within time that he has been unfairly dismissed by the respondents. Mr Blitz acting on behalf of Mr Taylor, the only represented claimant, has indicated that in light of all the circumstances and in light of the redundancy situation on the closure of the business that was operated at Wood Lane it was not intended to pursue an unfair dismissal complaint at this hearing although the claim had originally been brought as such. The claim of unfair dismissal is dismissed on the withdrawal.

13. Having heard the evidence and in light of all of my findings I find that the employees were employed by Tennants Craft Bakery, a business trading under that name that was owned by the Collins family. The claimants were variously told that Melissa Collins was the owner and that Debbie Collins was a Manager having an interest in the business and Carl Collins assisted in the day to day running of the business. Absent any contractual documentation that was provided to the claimants by their employer I find those three individuals as family members of the Collins family who from time to time engaged in the management of the business were de facto jointly and severally liable as owners of the business at the relevant time.

14. Turning to the individual complaints I make the following findings of fact and in conclusion reach the judgments and award compensation as set out below.

Mrs Brazier

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. With regard to Mrs Brazier, I find that she was dismissed by reason of redundancy on 16 April 2016 and she is entitled to a statutory redundancy payment in the sum of £3,886.00.

2. I find that the respondents made an unlawful deduction from her wages in the sum of £144.00.

3. The respondents failed to pay the claimant her statutory notice period or payment in lieu thereof. Her net pay was £144.00 per week and her entitlement over a 12 week statutory notice period is £1,728.00.

4. The respondents failed to pay to the claimant her accrued and untaken holiday entitlement in the sum of 33 hours accruing at the national minimum wage of £7.20 from 5 April in the sum of £237.60.

5. I find the respondents abjectly failed to comply with the ACAS Code of Practice and the awards that I have made to the claimant are uplifted by 25% in accordance with the provisions of section 124A of the Employment Rights Act by the sum of £1,498.90.

6. In the circumstances I award payment of both the issue and the Hearing fee to the claimant to be paid by the respondents in the sum of £390.00.

Mrs Walsh

1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment having regard to her age of 62, 16 years service and a gross week's pay of £227.80 in the sum of £5,467.00.

2. The respondents made unlawful deductions from the claimant's pay and the respondent is ordered to pay to the claimant the sum of £370.00.

3. The respondent failed to comply with the ACAS code and in accordance with the provisions of section 124A of the Employment Rights Act 1996, I order that the payments to which the claimant is entitled be uplifted by 25% in the sum of £1,459.25. The respondent is ordered to pay the fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

Mrs Edgington

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. The claimant was dismissed by the respondents by reason of redundancy and having regard to her age of 42 having more than 20 years service her statutory redundancy entitlement is £271.00 by 15.5, a total redundancy payment of £4,200.00.

2. The respondents failed to observe the ACAS code and I award a 25% uplift of the sums to which the claimant is entitled in accordance with the provisions of section 124A of the Employment Rights Act 1996, an uplift in the sum of £1,459.00.

3. The respondent is ordered to pay fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

Mr Taylor

1. Mr Taylor originally pursued a complaint that he was unfairly dismissed by the respondents as well as a number of other complaints. Mr Blitz on behalf of the claimant has confirmed today that the claimant does not wish to pursue an unfair dismissal complaint acknowledging that the reason for termination of his employment was redundancy, a potentially fair reason for dismissal. In the circumstances the claim for unfair dismissal is dismissed.

2. The claimant is entitled to a statutory redundancy payment based upon the claimant's age and more than 20 years of service and a gross weekly pay of £160.80 in the total sum of £4,824.00.

3. The respondents failed to pay the claimant his statutory entitlement to notice or payment in lieu thereof, a statutory entitlement of £1,920.00.

4. The respondents failed to provide to the claimant a section 1 statement of change of terms and conditions of employment and I award 4 weeks' pay in the gross sum of £160.80, a total of £443.20.

5. The respondents failed abjectly to comply with the ACAS code and I award an uplift of the compensation payments of 25% in accordance to the provisions of section 124A of the Employment Rights Act 1996, an uplift of £1,686.00.

6. The respondent is ordered to pay fees incurred by the claimant in the issue of these proceedings £250.00 and an issue fee incurred for the unfair dismissal in the sum of £950.00, a total sum of £1,200.00

Mrs J McKenry

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. The claimant is entitled to a statutory redundancy pay based upon her age of 62 years, 20 years continuous employment and a gross weekly wage of £199.00, a redundancy payment of £5,970.00.

2. The respondent is ordered to pay to the claimant compensation in lieu of her statutory notice period of 12 weeks' pay at £194.00 net, a total of £2,328.00.

3. The respondents made unlawful deductions from the claimant's pay in respect of a week in hand in the sum of £194.00.

4. The respondent failed to pay to the claimant her accrued entitlement to holiday pay in respect of 54 hours in the total sum of £388.00.

5. The respondents failed to observe the ACAS code and in accordance to the provisions of section 124A of the Employment Rights Act 1996, I award an uplift in the compensation award of 25%, the total sum of £2,220.00.

6. The respondent is required to pay the claimant's fees in the total sum of £390.00

Employment Judge Dean
22 May 2017

Judgment sent to Parties on
23 May 2017

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016



VCD

EMPLOYMENT TRIBUNALS

Claimant

Respondent

(1) Mrs J Brazier

(2) Mrs M Edgington

(3) Mr B Taylor

(4) Miss C Walsh

(5) Mrs J McKenry

v R1) Tennants Craft Bakery

**(R2) Mrs Debbie Collins t/a Tennants
Craft Bakery**

**(R3) Mr Carl Collins t/a Tennants Craft
Bakery**

**(R4) Miss Melissa Collins t/a Tennants
Craft Bakery**

(R5) Tennants Craft Bakery Limited

Heard at: Birmingham

On: 28 November 2016

Before: Employment Judge Dean

Appearances:

For Claimants

(1) Mrs J Brazier: in person

(2) Mrs M Edgington: in person

(3) Mr B Taylor : Mr Blitz (acting on behalf for Mr Taylor)

(4) Miss C Walsh: in person

(5) Mrs J McKenry: no attendance, written submissions

For Respondents: No appearance

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

JUDGMENT

The judgment of the Tribunal is that the claimants and each of them were employed by the First, Second and Third Respondents jointly and severally trading as Tenants Craft Bakery.

1 Mrs J Brazier: Case Number 1301817/2016

1.1. Mrs Brazier was dismissed by reason of redundancy on 16 April 2016 and she is entitled to a statutory redundancy payment in the sum of £3,886.00.

1.2. The respondents made an unlawful deduction from the claimant's wages in the sum of £144.00. The respondent is ordered to pay the claimant the sum of £144.00.

1.3. The respondents failed to pay the claimant her statutory notice period or payment in lieu thereof. Her net pay was £144.00 per week and her entitlement over a 12 week statutory notice period is £1,728.00. The respondent is ordered to pay the claimant damages in the sum of £1,728.00.

1.4. The respondents failed to pay to the claimant her accrued and untaken holiday entitlement in the sum of 33 hours accruing at the national minimum wage of £7.20 from 5 April in the sum of £237.60. The respondent is ordered to pay to the claimant the sum of £237.60.

1.5. The respondent having failed to comply with the ACAS Code of Practice the awards at paragraphs 1.1 - 1.4 that I have made to the claimant are uplifted by 25% in accordance with the provisions of section 124A of the Employment Rights Act in the sum of £1,498.90. The respondent is ordered to pay to the claimant the further sum of £1498.90.

1.6. In the circumstances I award payment of both the issue and the Hearing fee to the claimant to be paid by the respondents in the sum of £390.00.

1.7 The respondent is ordered to pay compensation to the claimant in the grand total sum of £7494.50 in addition to fees in the sum of £390.00.

2 Mrs Edgington: Case Number 1302284/2016

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

2.1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment of £4,200.00.

2.2. The respondents failed to observe the ACAS code and I award a 25% uplift of the sums to which the claimant is entitled in accordance with the provisions of section 124A of the Employment Rights Act 1996, an uplift in the sum of £1,459.00.

2.3. The respondent is ordered to pay fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

2.4. The respondent is ordered to pay compensation to the claimant in the grand total sum of £5,659.00 in addition to fees in the sum of £390.00.

3 Mr B Taylor: Case Number 1302284/2016

3.1. Mr Taylor's complaint of unfair dismissal is withdrawn and stands dismissed.

3.2. The claimant was dismissed by reason of redundancy and is entitled to a statutory redundancy payment in the total sum of £4,824.00.

3.3. The respondents failed to pay the claimant his statutory entitlement to notice or payment in lieu thereof, a statutory entitlement of £1,920.00. The respondent is ordered to pay damages in the sum of £1,920.00.

3.4. The respondents failed to provide to the claimant a section 1 statement of change of terms and conditions of employment. The respondent is ordered to pay to the claimant compensation in the gross sum of £643.20.

3.5. The respondents failed to comply with the ACAS code and I award an uplift of the compensation payments of 25% in accordance to the provisions of section 124A of the Employment Rights Act 1996, an uplift of £1,686.00.

3.6. The respondent is ordered to pay fees incurred by the claimant in the issue of these proceedings £250.00 and an issue fee incurred for the unfair dismissal in the sum of £950.00, a total sum of £1,200.00

3.7. The respondent is ordered to pay compensation to the claimant in the grand total sum of £9,073.20 in addition to fees in the sum of £1,200.00.

4 Miss C Walsh: Case Number 1301759/2016

4.1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment in the sum of £5,467.00.

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

4.2. The respondents made unlawful deductions from the claimant's pay and the respondent is ordered to pay to the claimant the sum of £370.00.

4.3. The respondent failed to comply with the ACAS code and, in accordance with the provisions of section 124A of the Employment Rights Act 1996, I order that the payments to which the claimant is entitled be uplifted by 25% in the sum of £1,459.25.

4.4 The respondent is ordered to pay the fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

4.5 The respondent is ordered to pay compensation to the claimant in the grand total sum of £7,296.00 in addition to fees in the sum of £390.00.

5. Mrs J McKenry: Case Number 1302362/2016

5.1. The claimant is entitled to a statutory redundancy payment of £5,970.00.

5.2. The respondent is ordered to pay to the claimant compensation in lieu of her statutory notice period of 12 weeks' pay at £194.00 net, a total of £2,328.00. The respondent is ordered to pay to the claimant damages in the sum of £2,328.00.

5.3. The respondent made unlawful deductions from the claimant's pay in respect of a week in hand in the sum of £194.00. The respondent is ordered to pay to the claimant the sum of £194.00.

5.4. The respondent failed to pay to the claimant her accrued entitlement to holiday pay in respect of 54 hours in the total sum of £388.00. The respondent is ordered to pay to the claimant the sum of £388.00.

5.5. The respondent failed to observe the ACAS code and in accordance to the provisions of section 124A of the Employment Rights Act 1996, I award an uplift in the compensation award of 25%, the total sum of £2,220.00.

5.6. The respondent is required to pay the claimant's fees in the total sum of £390.00.

5.7 The respondent is ordered to pay compensation to the claimant in the grand total sum of £11,100.0 in addition to fees in the sum of £390.00.

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

REASONS

1. The judgment and the reasons for it were announced at the hearing of this case. The parties have requested that reasons for the Judgment be sent to them. I would apologise to the parties for the delay in forwarding the written Judgment and Reasons for it to them. The promulgation of the judgment was initially delayed by my judicial commitments and subsequently in 2017 by my prolonged absence from the Employment Tribunal because of ill health that prevented the judgment and reasons for it being sent to the parties.

2. By way of background the claimants were employed by a business that traded as Tennants Craft Bakery and they had all been long serving employees of the respondents when their employment came to an end unexpectedly when the business at the locations at which they were employed by the respondents ceased trading. In the circumstance Mrs Edgington's employment was terminated on 25 November 2015 and the remaining claimants' employment was terminated on 16 April 2016. The five cases have been consolidated by the Employment Tribunal as they involve the same employer and sadly the same or very similar circumstances where the employer has simply ceased trading and has terminated the claimants' employment.

3. None of the named respondents or any combination of them have entered a response to the complaints brought against them. I have heard evidence from each claimant, with the exception of Mrs J McKenry and as a result of their uncontested account I have made my findings of fact.

4. Mrs Brazier began employment with the respondents on 21 July 1992 as a bakery cleaner, Miss Walsh began employment on 15 April 2000 and Mrs Edgington as a Shop Manager at the Market Street shop in Hednesford on 22 July 1988, Mr B Taylor began employment as the Driver Assistant Baker working at the Wood Lane bakery on 9 November 1993 and Mrs J McKenry on 17 June 1986. It is starkly disappointing that such long serving employees were subject to the treatment by the respondents that they were. The claimants all worked for a good length of time with the previous owners of the respondent business, Mr Philip Tennant and Mrs Jane Tennant, who had spoken to their employees informing them that they were looking to sell the business in 2014. They had hoped that there would be a completion date on 30 September 2014 to transfer the business to Mr Carl and Mrs Debbie

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

Collins. In the event the claimants were given to understand that Mr and Mrs Collins chose to have the business put into the name of their daughter, Ms Melissa Collins, and the claimant were told that the sale of the business from Mr & Mrs Tennant to Ms Melissa Collins took place on Friday 24 October 2014. Notice confirming the change of the employer was posted for all staff members of Tennants Craft Bakery and was posted on the notice board. The claimant were informed that their employment was transferred to Ms Melissa Collins who continued to trade as Tennants Craft Bakery as identified in the notice (p.51). It would seem that Ms Collins initially managed, as well as owned, the bakery (p.52) writing to Mr Taylor identifying the rota systems. However, it would seem from all of the evidence I have heard from the four witnesses who gave evidence; Mrs Brazier, Mrs Edgington, Mr Taylor and Ms Walsh, that Ms Collins' interest in the bakery waned and her mother, Debbie Collins who worked as the administrator at the Wood Lane site and her father Mr Carl Collins, who increasingly increasingly managed the operation at all of the sites. Indeed Mrs Debbie Collins I am told was the tenant on a lease that was forfeited on non-payment of the rent and Mrs Edgington who was the Store Manager at the Market Street Bakers Shop was informed of that fact by the landlord when the shutters were put up on the closure of that shop on 20 November 2015.

5. One of the many issues I have to decide in this case is who was the employer of each of the claimants. Based upon the best information that has been given to me, although that is limited, it is apparent that Ms Melissa Collins from time to time when funds were low wrote personal cheques to pay salaries for a number of the employees as confirmed by Mrs Brazier's bank statements to that effect. Pay advice slips were issued to employees in the trading name of Tennants Craft Bakery. In the circumstances given Mrs Debbie Collins' management and day-to-day organisation of the business and the involvement in the running of the business by Mr Carl Tennant, it would appear that Tennants Craft Bakery was a family run business that had been put into the name of Melissa Collins and the owners of the business would appear in those circumstances to be jointly Melissa Collins, Debbie Collins and Carl Collins who I find to be jointly and severally liable as employers of each of the five claimants in this case.

6. Mrs McKenry has not attended the tribunal hearing to give evidence today. She relies upon the written documentation that she has submitted. At first glance Mrs McKenry's application to the tribunal would appear not to have been presented in time. Her employment terminated on 16 April 2016. She referred the case for early conciliation to ACAS on 17 June. A certificate was issued on 12 July and her claim was validly presented to the Employment Tribunal on 16 September. Further enquiries identified that the claim was

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

originally presented on 12 August 2016 but was not accompanied by the fee that was then due. It is clear however that Mrs McKenry's husband was at that time in hospital and the claimant did not have access to the internet but when she did she resubmitted her complaint which was presented on 16 September 2016. In light of the written representations that I have received I find in the circumstances it was not reasonably practicable for her to have presented a complaint within 3 months of the termination of her employment allowing for the adjusted dates with early conciliation. However, it was presented within such time as I consider reasonable and I find the tribunal has jurisdiction to entertain her complaint. I have considered the law in relation to presentation of complaints to an Employment Tribunal consistent with the provisions of s111(2) of the Employment Rights Act 1996.

7. Section 111(2) Employment Rights Act 1996 provides that a tribunal shall not consider a complaint that an employee was unfairly dismissed unless it is presented to the tribunal

(a) before the end of the period of three months beginning with the effective date of termination or

(b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for a complaint to be presented before the end of that period of three months.

The expression "not reasonably practicable" has been the subject of considerable judicial interpretation. I have considered the following authorities:-

Dedman -v- British Building and Engineering Applicances Ltd [1973] IRLR 379 CA

Walls Meat Co Ltdv Khan [1979] ICR 52,CA

Marks & Spencer Plc -v- Williams-Ryan [2005] IRLR 563 CA

Consignia Plc -v- Sealy [2002]IRLR 624 (CA)

Initial Electronic Security Systems Ltd -v- Miss A Avdic UK EAT – 0281 -05

Camden & Islington Community Services NHS Trust -v- Kennedy [1996] IRLR 381

Capital Foods Retail Ltd -v- Corrigan [1993] IRLR 430

Chohan -v Derby Law Centre [2004] IRLR 685

Having regard to the relevant authorities I consider that the complaint was not presented in time, it was not reasonably practicable for her to have done so. I find however it was presented within such further period as I consider to have been reasonable in the facts of the case.

8. Mrs Edgington's case is slightly different to that of the remaining four claimants. She was employed as a Shop Manager working at the Market

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Street Bakery. She attended for work as she would have normally on 25 November 2015 to find that the premises was closed and that a notice had been placed on the door by the landlord as it had been seized by the landlord as a result of non-payment of rent by Debbie Collins who was the tenant. Mrs Edgington sought to pursue the respondents for her redundancy payment which was not forthcoming from them and following advice from ACAS she made a request that the Redundancy Payments Office through the Secretary of State should pay her redundancy entitlement. Sadly because Ms Melissa Collins trading as Tennants Craft Bakery was not bankrupt and the business was not insolvent payment was not made. Mrs Edgington latterly received confirmation from that service on 2 June 2016 that she would have to pursue her employer for the redundancy payment through the Employment Tribunal to get a judgment to the effect that her redundancy payment was rightly hers. A complaint was presented to the tribunal on 15 August 2016 within the extended time period of an additional 3 months from the time of the Secretary of State's decision. In the circumstances I find that the tribunal has jurisdiction to entertain the complaint.

9. Turning to the events that affected the remaining four claimants, the employees who worked at the bakery based at Wood Lane, Hednesford. The employees had been told that the Collins family were looking to relocate to more suitable premises and indeed the claimants have been led to believe that those premises would be to a location within Cannock in a place called Four Ashes. Mr Taylor understood that it might have been on an industrial estate but although he thought it was somewhat out of the way, he and indeed I have no doubt the other employees would have relocated to work at such a location. In the event on Saturday 16 April 2016 a number of articulated lorries attended at the Bakery, which baked bread as well as sold it at a small retail unit that in latter months had been closed. Towards the end of the morning, at around about 9.00am, the bakery, having opened much earlier to bake the bread, the ovens were taken away. Mr Taylor says that the transport lorries set off in the northerly direction and in fact the respondent business did not relocate to Four Ashes or anywhere locally.

10. The claimants were led to believe that the Collins family had relocated to an operation in Macclesfield. The claimants understood that the business had been sold to Basingtons Bakery Ltd, however, that party was sent correspondence from the tribunal and their response was that none of the employees were employed by that business nor had they any knowledge of the Tennants Craft Bakery. In the circumstances it is evident that the operation of a bakery at Wood Lane, Hednesford by Tennants Craft Bakery ceased with immediate effect on 16 April 2016. Sadly the respondents whether Melissa or Debbie Collins or indeed anyone within the family who

Case Numbers: (1) 1301817/2016

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worked in the business deliberately appears to have misled the claimants as to their future employment. On 16 April 2016 the Collins family members had indicated that they would be in touch by text telling the claimants who had remained in their employment, where to go to work the following week. However no such text was received by any of the employees nor did any of the Collins family communicate with the claimants. The respondent behaved in much the way as they had ceased to communicate with Ms Edgington when her employment was summarily terminated in November 2015.

11. I find that the respondents have abjectly failed to comply with any of the standards of good industrial practice as commended by ACAS and although the employment was terminated by reason of redundancy on closure of the business that the Collins family operated and traded as Tennants Craft Bakery it was without doubt an unfair dismissal.

12. Mr Taylor is the only claimant who has claimed within time that he has been unfairly dismissed by the respondents. Mr Blitz acting on behalf of Mr Taylor, the only represented claimant, has indicated that in light of all the circumstances and in light of the redundancy situation on the closure of the business that was operated at Wood Lane it was not intended to pursue an unfair dismissal complaint at this hearing although the claim had originally been brought as such. The claim of unfair dismissal is dismissed on the withdrawal.

13. Having heard the evidence and in light of all of my findings I find that the employees were employed by Tennants Craft Bakery, a business trading under that name that was owned by the Collins family. The claimants were variously told that Melissa Collins was the owner and that Debbie Collins was a Manager having an interest in the business and Carl Collins assisted in the day to day running of the business. Absent any contractual documentation that was provided to the claimants by their employer I find those three individuals as family members of the Collins family who from time to time engaged in the management of the business were de facto jointly and severally liable as owners of the business at the relevant time.

14. Turning to the individual complaints I make the following findings of fact and in conclusion reach the judgments and award compensation as set out below.

Mrs Brazier

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. With regard to Mrs Brazier, I find that she was dismissed by reason of redundancy on 16 April 2016 and she is entitled to a statutory redundancy payment in the sum of £3,886.00.

2. I find that the respondents made an unlawful deduction from her wages in the sum of £144.00.

3. The respondents failed to pay the claimant her statutory notice period or payment in lieu thereof. Her net pay was £144.00 per week and her entitlement over a 12 week statutory notice period is £1,728.00.

4. The respondents failed to pay to the claimant her accrued and untaken holiday entitlement in the sum of 33 hours accruing at the national minimum wage of £7.20 from 5 April in the sum of £237.60.

5. I find the respondents abjectly failed to comply with the ACAS Code of Practice and the awards that I have made to the claimant are uplifted by 25% in accordance with the provisions of section 124A of the Employment Rights Act by the sum of £1,498.90.

6. In the circumstances I award payment of both the issue and the Hearing fee to the claimant to be paid by the respondents in the sum of £390.00.

Mrs Walsh

1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment having regard to her age of 62, 16 years service and a gross week's pay of £227.80 in the sum of £5,467.00.

2. The respondents made unlawful deductions from the claimant's pay and the respondent is ordered to pay to the claimant the sum of £370.00.

3. The respondent failed to comply with the ACAS code and in accordance with the provisions of section 124A of the Employment Rights Act 1996, I order that the payments to which the claimant is entitled be uplifted by 25% in the sum of £1,459.25. The respondent is ordered to pay the fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

Mrs Edgington

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. The claimant was dismissed by the respondents by reason of redundancy and having regard to her age of 42 having more than 20 years service her statutory redundancy entitlement is £271.00 by 15.5, a total redundancy payment of £4,200.00.

2. The respondents failed to observe the ACAS code and I award a 25% uplift of the sums to which the claimant is entitled in accordance with the provisions of section 124A of the Employment Rights Act 1996, an uplift in the sum of £1,459.00.

3. The respondent is ordered to pay fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

Mr Taylor

1. Mr Taylor originally pursued a complaint that he was unfairly dismissed by the respondents as well as a number of other complaints. Mr Blitz on behalf of the claimant has confirmed today that the claimant does not wish to pursue an unfair dismissal complaint acknowledging that the reason for termination of his employment was redundancy, a potentially fair reason for dismissal. In the circumstances the claim for unfair dismissal is dismissed.

2. The claimant is entitled to a statutory redundancy payment based upon the claimant's age and more than 20 years of service and a gross weekly pay of £160.80 in the total sum of £4,824.00.

3. The respondents failed to pay the claimant his statutory entitlement to notice or payment in lieu thereof, a statutory entitlement of £1,920.00.

4. The respondents failed to provide to the claimant a section 1 statement of change of terms and conditions of employment and I award 4 weeks' pay in the gross sum of £160.80, a total of £443.20.

5. The respondents failed abjectly to comply with the ACAS code and I award an uplift of the compensation payments of 25% in accordance to the provisions of section 124A of the Employment Rights Act 1996, an uplift of £1,686.00.

6. The respondent is ordered to pay fees incurred by the claimant in the issue of these proceedings £250.00 and an issue fee incurred for the unfair dismissal in the sum of £950.00, a total sum of £1,200.00

Mrs J McKenry

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. The claimant is entitled to a statutory redundancy pay based upon her age of 62 years, 20 years continuous employment and a gross weekly wage of £199.00, a redundancy payment of £5,970.00.

2. The respondent is ordered to pay to the claimant compensation in lieu of her statutory notice period of 12 weeks' pay at £194.00 net, a total of £2,328.00.

3. The respondents made unlawful deductions from the claimant's pay in respect of a week in hand in the sum of £194.00.

4. The respondent failed to pay to the claimant her accrued entitlement to holiday pay in respect of 54 hours in the total sum of £388.00.

5. The respondents failed to observe the ACAS code and in accordance to the provisions of section 124A of the Employment Rights Act 1996, I award an uplift in the compensation award of 25%, the total sum of £2,220.00.

6. The respondent is required to pay the claimant's fees in the total sum of £390.00

Employment Judge Dean
22 May 2017

Judgment sent to Parties on
23 May 2017

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016



VCD

EMPLOYMENT TRIBUNALS

Claimant

Respondent

(1) Mrs J Brazier

(2) Mrs M Edgington

(3) Mr B Taylor

(4) Miss C Walsh

(5) Mrs J McKenry

v R1) Tennants Craft Bakery

**(R2) Mrs Debbie Collins t/a Tennants
Craft Bakery**

**(R3) Mr Carl Collins t/a Tennants Craft
Bakery**

**(R4) Miss Melissa Collins t/a Tennants
Craft Bakery**

(R5) Tennants Craft Bakery Limited

Heard at: Birmingham

On: 28 November 2016

Before: Employment Judge Dean

Appearances:

For Claimants

(1) Mrs J Brazier: in person

(2) Mrs M Edgington: in person

(3) Mr B Taylor : Mr Blitz (acting on behalf for Mr Taylor)

(4) Miss C Walsh: in person

(5) Mrs J McKenry: no attendance, written submissions

For Respondents: No appearance

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

JUDGMENT

The judgment of the Tribunal is that the claimants and each of them were employed by the First, Second and Third Respondents jointly and severally trading as Tenants Craft Bakery.

1 Mrs J Brazier: Case Number 1301817/2016

1.1. Mrs Brazier was dismissed by reason of redundancy on 16 April 2016 and she is entitled to a statutory redundancy payment in the sum of £3,886.00.

1.2. The respondents made an unlawful deduction from the claimant's wages in the sum of £144.00. The respondent is ordered to pay the claimant the sum of £144.00.

1.3. The respondents failed to pay the claimant her statutory notice period or payment in lieu thereof. Her net pay was £144.00 per week and her entitlement over a 12 week statutory notice period is £1,728.00. The respondent is ordered to pay the claimant damages in the sum of £1,728.00.

1.4. The respondents failed to pay to the claimant her accrued and untaken holiday entitlement in the sum of 33 hours accruing at the national minimum wage of £7.20 from 5 April in the sum of £237.60. The respondent is ordered to pay to the claimant the sum of £237.60.

1.5. The respondent having failed to comply with the ACAS Code of Practice the awards at paragraphs 1.1 - 1.4 that I have made to the claimant are uplifted by 25% in accordance with the provisions of section 124A of the Employment Rights Act in the sum of £1,498.90. The respondent is ordered to pay to the claimant the further sum of £1498.90.

1.6. In the circumstances I award payment of both the issue and the Hearing fee to the claimant to be paid by the respondents in the sum of £390.00.

1.7 The respondent is ordered to pay compensation to the claimant in the grand total sum of £7494.50 in addition to fees in the sum of £390.00.

2 Mrs Edgington: Case Number 1302284/2016

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

2.1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment of £4,200.00.

2.2. The respondents failed to observe the ACAS code and I award a 25% uplift of the sums to which the claimant is entitled in accordance with the provisions of section 124A of the Employment Rights Act 1996, an uplift in the sum of £1,459.00.

2.3. The respondent is ordered to pay fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

2.4. The respondent is ordered to pay compensation to the claimant in the grand total sum of £5,659.00 in addition to fees in the sum of £390.00.

3 Mr B Taylor: Case Number 1302284/2016

3.1. Mr Taylor's complaint of unfair dismissal is withdrawn and stands dismissed.

3.2. The claimant was dismissed by reason of redundancy and is entitled to a statutory redundancy payment in the total sum of £4,824.00.

3.3. The respondents failed to pay the claimant his statutory entitlement to notice or payment in lieu thereof, a statutory entitlement of £1,920.00. The respondent is ordered to pay damages in the sum of £1,920.00.

3.4. The respondents failed to provide to the claimant a section 1 statement of change of terms and conditions of employment. The respondent is ordered to pay to the claimant compensation in the gross sum of £643.20.

3.5. The respondents failed to comply with the ACAS code and I award an uplift of the compensation payments of 25% in accordance to the provisions of section 124A of the Employment Rights Act 1996, an uplift of £1,686.00.

3.6. The respondent is ordered to pay fees incurred by the claimant in the issue of these proceedings £250.00 and an issue fee incurred for the unfair dismissal in the sum of £950.00, a total sum of £1,200.00

3.7. The respondent is ordered to pay compensation to the claimant in the grand total sum of £9,073.20 in addition to fees in the sum of £1,200.00.

4 Miss C Walsh: Case Number 1301759/2016

4.1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment in the sum of £5,467.00.

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

4.2. The respondents made unlawful deductions from the claimant's pay and the respondent is ordered to pay to the claimant the sum of £370.00.

4.3. The respondent failed to comply with the ACAS code and, in accordance with the provisions of section 124A of the Employment Rights Act 1996, I order that the payments to which the claimant is entitled be uplifted by 25% in the sum of £1,459.25.

4.4 The respondent is ordered to pay the fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

4.5 The respondent is ordered to pay compensation to the claimant in the grand total sum of £7,296.00 in addition to fees in the sum of £390.00.

5. Mrs J McKenry: Case Number 1302362/2016

5.1. The claimant is entitled to a statutory redundancy payment of £5,970.00.

5.2. The respondent is ordered to pay to the claimant compensation in lieu of her statutory notice period of 12 weeks' pay at £194.00 net, a total of £2,328.00. The respondent is ordered to pay to the claimant damages in the sum of £2,328.00.

5.3. The respondent made unlawful deductions from the claimant's pay in respect of a week in hand in the sum of £194.00. The respondent is ordered to pay to the claimant the sum of £194.00.

5.4. The respondent failed to pay to the claimant her accrued entitlement to holiday pay in respect of 54 hours in the total sum of £388.00. The respondent is ordered to pay to the claimant the sum of £388.00.

5.5. The respondent failed to observe the ACAS code and in accordance to the provisions of section 124A of the Employment Rights Act 1996, I award an uplift in the compensation award of 25%, the total sum of £2,220.00.

5.6. The respondent is required to pay the claimant's fees in the total sum of £390.00.

5.7 The respondent is ordered to pay compensation to the claimant in the grand total sum of £11,100.0 in addition to fees in the sum of £390.00.

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

REASONS

1. The judgment and the reasons for it were announced at the hearing of this case. The parties have requested that reasons for the Judgment be sent to them. I would apologise to the parties for the delay in forwarding the written Judgment and Reasons for it to them. The promulgation of the judgment was initially delayed by my judicial commitments and subsequently in 2017 by my prolonged absence from the Employment Tribunal because of ill health that prevented the judgment and reasons for it being sent to the parties.

2. By way of background the claimants were employed by a business that traded as Tennants Craft Bakery and they had all been long serving employees of the respondents when their employment came to an end unexpectedly when the business at the locations at which they were employed by the respondents ceased trading. In the circumstance Mrs Edgington's employment was terminated on 25 November 2015 and the remaining claimants' employment was terminated on 16 April 2016. The five cases have been consolidated by the Employment Tribunal as they involve the same employer and sadly the same or very similar circumstances where the employer has simply ceased trading and has terminated the claimants' employment.

3. None of the named respondents or any combination of them have entered a response to the complaints brought against them. I have heard evidence from each claimant, with the exception of Mrs J McKenry and as a result of their uncontested account I have made my findings of fact.

4. Mrs Brazier began employment with the respondents on 21 July 1992 as a bakery cleaner, Miss Walsh began employment on 15 April 2000 and Mrs Edgington as a Shop Manager at the Market Street shop in Hednesford on 22 July 1988, Mr B Taylor began employment as the Driver Assistant Baker working at the Wood Lane bakery on 9 November 1993 and Mrs J McKenry on 17 June 1986. It is starkly disappointing that such long serving employees were subject to the treatment by the respondents that they were. The claimants all worked for a good length of time with the previous owners of the respondent business, Mr Philip Tennant and Mrs Jane Tennant, who had spoken to their employees informing them that they were looking to sell the business in 2014. They had hoped that there would be a completion date on 30 September 2014 to transfer the business to Mr Carl and Mrs Debbie

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

Collins. In the event the claimants were given to understand that Mr and Mrs Collins chose to have the business put into the name of their daughter, Ms Melissa Collins, and the claimant were told that the sale of the business from Mr & Mrs Tennant to Ms Melissa Collins took place on Friday 24 October 2014. Notice confirming the change of the employer was posted for all staff members of Tennants Craft Bakery and was posted on the notice board. The claimant were informed that their employment was transferred to Ms Melissa Collins who continued to trade as Tennants Craft Bakery as identified in the notice (p.51). It would seem that Ms Collins initially managed, as well as owned, the bakery (p.52) writing to Mr Taylor identifying the rota systems. However, it would seem from all of the evidence I have heard from the four witnesses who gave evidence; Mrs Brazier, Mrs Edgington, Mr Taylor and Ms Walsh, that Ms Collins' interest in the bakery waned and her mother, Debbie Collins who worked as the administrator at the Wood Lane site and her father Mr Carl Collins, who increasingly increasingly managed the operation at all of the sites. Indeed Mrs Debbie Collins I am told was the tenant on a lease that was forfeited on non-payment of the rent and Mrs Edgington who was the Store Manager at the Market Street Bakers Shop was informed of that fact by the landlord when the shutters were put up on the closure of that shop on 20 November 2015.

5. One of the many issues I have to decide in this case is who was the employer of each of the claimants. Based upon the best information that has been given to me, although that is limited, it is apparent that Ms Melissa Collins from time to time when funds were low wrote personal cheques to pay salaries for a number of the employees as confirmed by Mrs Brazier's bank statements to that effect. Pay advice slips were issued to employees in the trading name of Tennants Craft Bakery. In the circumstances given Mrs Debbie Collins' management and day-to-day organisation of the business and the involvement in the running of the business by Mr Carl Tennant, it would appear that Tennants Craft Bakery was a family run business that had been put into the name of Melissa Collins and the owners of the business would appear in those circumstances to be jointly Melissa Collins, Debbie Collins and Carl Collins who I find to be jointly and severally liable as employers of each of the five claimants in this case.

6. Mrs McKenry has not attended the tribunal hearing to give evidence today. She relies upon the written documentation that she has submitted. At first glance Mrs McKenry's application to the tribunal would appear not to have been presented in time. Her employment terminated on 16 April 2016. She referred the case for early conciliation to ACAS on 17 June. A certificate was issued on 12 July and her claim was validly presented to the Employment Tribunal on 16 September. Further enquiries identified that the claim was

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

originally presented on 12 August 2016 but was not accompanied by the fee that was then due. It is clear however that Mrs McKenry's husband was at that time in hospital and the claimant did not have access to the internet but when she did she resubmitted her complaint which was presented on 16 September 2016. In light of the written representations that I have received I find in the circumstances it was not reasonably practicable for her to have presented a complaint within 3 months of the termination of her employment allowing for the adjusted dates with early conciliation. However, it was presented within such time as I consider reasonable and I find the tribunal has jurisdiction to entertain her complaint. I have considered the law in relation to presentation of complaints to an Employment Tribunal consistent with the provisions of s111(2) of the Employment Rights Act 1996.

7. Section 111(2) Employment Rights Act 1996 provides that a tribunal shall not consider a complaint that an employee was unfairly dismissed unless it is presented to the tribunal

(a) before the end of the period of three months beginning with the effective date of termination or

(b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for a complaint to be presented before the end of that period of three months.

The expression "not reasonably practicable" has been the subject of considerable judicial interpretation. I have considered the following authorities:-

Dedman -v- British Building and Engineering Applicances Ltd [1973]
IRLR 379 CA

Walls Meat Co Ltdv Khan [1979] ICR 52,CA

Marks & Spencer Plc -v- Williams-Ryan [2005] IRLR 563 CA

Consignia Plc -v- Sealy [2002]IRLR 624 (CA)

Initial Electronic Security Systems Ltd -v- Miss A Avdic UK EAT – 0281-05

Camden & Islington Community Services NHS Trust -v- Kennedy [1996] IRLR 381

Capital Foods Retail Ltd -v- Corrigan [1993] IRLR 430

Chohan -v Derby Law Centre [2004] IRLR 685

Having regard to the relevant authorities I consider that the complaint was not presented in time, it was not reasonably practicable for her to have done so. I find however it was presented within such further period as I consider to have been reasonable in the facts of the case.

8. Mrs Edgington's case is slightly different to that of the remaining four claimants. She was employed as a Shop Manager working at the Market

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

Street Bakery. She attended for work as she would have normally on 25 November 2015 to find that the premises was closed and that a notice had been placed on the door by the landlord as it had been seized by the landlord as a result of non-payment of rent by Debbie Collins who was the tenant. Mrs Edgington sought to pursue the respondents for her redundancy payment which was not forthcoming from them and following advice from ACAS she made a request that the Redundancy Payments Office through the Secretary of State should pay her redundancy entitlement. Sadly because Ms Melissa Collins trading as Tennants Craft Bakery was not bankrupt and the business was not insolvent payment was not made. Mrs Edgington latterly received confirmation from that service on 2 June 2016 that she would have to pursue her employer for the redundancy payment through the Employment Tribunal to get a judgment to the effect that her redundancy payment was rightly hers. A complaint was presented to the tribunal on 15 August 2016 within the extended time period of an additional 3 months from the time of the Secretary of State's decision. In the circumstances I find that the tribunal has jurisdiction to entertain the complaint.

9. Turning to the events that affected the remaining four claimants, the employees who worked at the bakery based at Wood Lane, Hednesford. The employees had been told that the Collins family were looking to relocate to more suitable premises and indeed the claimants have been led to believe that those premises would be to a location within Cannock in a place called Four Ashes. Mr Taylor understood that it might have been on an industrial estate but although he thought it was somewhat out of the way, he and indeed I have no doubt the other employees would have relocated to work at such a location. In the event on Saturday 16 April 2016 a number of articulated lorries attended at the Bakery, which baked bread as well as sold it at a small retail unit that in latter months had been closed. Towards the end of the morning, at around about 9.00am, the bakery, having opened much earlier to bake the bread, the ovens were taken away. Mr Taylor says that the transport lorries set off in the northerly direction and in fact the respondent business did not relocate to Four Ashes or anywhere locally.

10. The claimants were led to believe that the Collins family had relocated to an operation in Macclesfield. The claimants understood that the business had been sold to Basingtons Bakery Ltd, however, that party was sent correspondence from the tribunal and their response was that none of the employees were employed by that business nor had they any knowledge of the Tennants Craft Bakery. In the circumstances it is evident that the operation of a bakery at Wood Lane, Hednesford by Tennants Craft Bakery ceased with immediate effect on 16 April 2016. Sadly the respondents whether Melissa or Debbie Collins or indeed anyone within the family who

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

worked in the business deliberately appears to have misled the claimants as to their future employment. On 16 April 2016 the Collins family members had indicated that they would be in touch by text telling the claimants who had remained in their employment, where to go to work the following week. However no such text was received by any of the employees nor did any of the Collins family communicate with the claimants. The respondent behaved in much the way as they had ceased to communicate with Ms Edgington when her employment was summarily terminated in November 2015.

11. I find that the respondents have abjectly failed to comply with any of the standards of good industrial practice as commended by ACAS and although the employment was terminated by reason of redundancy on closure of the business that the Collins family operated and traded as Tennants Craft Bakery it was without doubt an unfair dismissal.

12. Mr Taylor is the only claimant who has claimed within time that he has been unfairly dismissed by the respondents. Mr Blitz acting on behalf of Mr Taylor, the only represented claimant, has indicated that in light of all the circumstances and in light of the redundancy situation on the closure of the business that was operated at Wood Lane it was not intended to pursue an unfair dismissal complaint at this hearing although the claim had originally been brought as such. The claim of unfair dismissal is dismissed on the withdrawal.

13. Having heard the evidence and in light of all of my findings I find that the employees were employed by Tennants Craft Bakery, a business trading under that name that was owned by the Collins family. The claimants were variously told that Melissa Collins was the owner and that Debbie Collins was a Manager having an interest in the business and Carl Collins assisted in the day to day running of the business. Absent any contractual documentation that was provided to the claimants by their employer I find those three individuals as family members of the Collins family who from time to time engaged in the management of the business were de facto jointly and severally liable as owners of the business at the relevant time.

14. Turning to the individual complaints I make the following findings of fact and in conclusion reach the judgments and award compensation as set out below.

Mrs Brazier

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. With regard to Mrs Brazier, I find that she was dismissed by reason of redundancy on 16 April 2016 and she is entitled to a statutory redundancy payment in the sum of £3,886.00.

2. I find that the respondents made an unlawful deduction from her wages in the sum of £144.00.

3. The respondents failed to pay the claimant her statutory notice period or payment in lieu thereof. Her net pay was £144.00 per week and her entitlement over a 12 week statutory notice period is £1,728.00.

4. The respondents failed to pay to the claimant her accrued and untaken holiday entitlement in the sum of 33 hours accruing at the national minimum wage of £7.20 from 5 April in the sum of £237.60.

5. I find the respondents abjectly failed to comply with the ACAS Code of Practice and the awards that I have made to the claimant are uplifted by 25% in accordance with the provisions of section 124A of the Employment Rights Act by the sum of £1,498.90.

6. In the circumstances I award payment of both the issue and the Hearing fee to the claimant to be paid by the respondents in the sum of £390.00.

Mrs Walsh

1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment having regard to her age of 62, 16 years service and a gross week's pay of £227.80 in the sum of £5,467.00.

2. The respondents made unlawful deductions from the claimant's pay and the respondent is ordered to pay to the claimant the sum of £370.00.

3. The respondent failed to comply with the ACAS code and in accordance with the provisions of section 124A of the Employment Rights Act 1996, I order that the payments to which the claimant is entitled be uplifted by 25% in the sum of £1,459.25. The respondent is ordered to pay the fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

Mrs Edgington

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. The claimant was dismissed by the respondents by reason of redundancy and having regard to her age of 42 having more than 20 years service her statutory redundancy entitlement is £271.00 by 15.5, a total redundancy payment of £4,200.00.

2. The respondents failed to observe the ACAS code and I award a 25% uplift of the sums to which the claimant is entitled in accordance with the provisions of section 124A of the Employment Rights Act 1996, an uplift in the sum of £1,459.00.

3. The respondent is ordered to pay fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

Mr Taylor

1. Mr Taylor originally pursued a complaint that he was unfairly dismissed by the respondents as well as a number of other complaints. Mr Blitz on behalf of the claimant has confirmed today that the claimant does not wish to pursue an unfair dismissal complaint acknowledging that the reason for termination of his employment was redundancy, a potentially fair reason for dismissal. In the circumstances the claim for unfair dismissal is dismissed.

2. The claimant is entitled to a statutory redundancy payment based upon the claimant's age and more than 20 years of service and a gross weekly pay of £160.80 in the total sum of £4,824.00.

3. The respondents failed to pay the claimant his statutory entitlement to notice or payment in lieu thereof, a statutory entitlement of £1,920.00.

4. The respondents failed to provide to the claimant a section 1 statement of change of terms and conditions of employment and I award 4 weeks' pay in the gross sum of £160.80, a total of £443.20.

5. The respondents failed abjectly to comply with the ACAS code and I award an uplift of the compensation payments of 25% in accordance to the provisions of section 124A of the Employment Rights Act 1996, an uplift of £1,686.00.

6. The respondent is ordered to pay fees incurred by the claimant in the issue of these proceedings £250.00 and an issue fee incurred for the unfair dismissal in the sum of £950.00, a total sum of £1,200.00

Mrs J McKenry

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. The claimant is entitled to a statutory redundancy pay based upon her age of 62 years, 20 years continuous employment and a gross weekly wage of £199.00, a redundancy payment of £5,970.00.

2. The respondent is ordered to pay to the claimant compensation in lieu of her statutory notice period of 12 weeks' pay at £194.00 net, a total of £2,328.00.

3. The respondents made unlawful deductions from the claimant's pay in respect of a week in hand in the sum of £194.00.

4. The respondent failed to pay to the claimant her accrued entitlement to holiday pay in respect of 54 hours in the total sum of £388.00.

5. The respondents failed to observe the ACAS code and in accordance to the provisions of section 124A of the Employment Rights Act 1996, I award an uplift in the compensation award of 25%, the total sum of £2,220.00.

6. The respondent is required to pay the claimant's fees in the total sum of £390.00

Employment Judge Dean
22 May 2017

Judgment sent to Parties on
23 May 2017

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016



VCD

EMPLOYMENT TRIBUNALS

Claimant

Respondent

(1) Mrs J Brazier

(2) Mrs M Edgington

(3) Mr B Taylor

(4) Miss C Walsh

(5) Mrs J McKenry

v R1) Tennants Craft Bakery

**(R2) Mrs Debbie Collins t/a Tennants
Craft Bakery**

**(R3) Mr Carl Collins t/a Tennants Craft
Bakery**

**(R4) Miss Melissa Collins t/a Tennants
Craft Bakery**

(R5) Tennants Craft Bakery Limited

Heard at: Birmingham

On: 28 November 2016

Before: Employment Judge Dean

Appearances:

For Claimants

(1) Mrs J Brazier: in person

(2) Mrs M Edgington: in person

(3) Mr B Taylor : Mr Blitz (acting on behalf for Mr Taylor)

(4) Miss C Walsh: in person

(5) Mrs J McKenry: no attendance, written submissions

For Respondents: No appearance

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

JUDGMENT

The judgment of the Tribunal is that the claimants and each of them were employed by the First, Second and Third Respondents jointly and severally trading as Tenants Craft Bakery.

1 Mrs J Brazier: Case Number 1301817/2016

1.1. Mrs Brazier was dismissed by reason of redundancy on 16 April 2016 and she is entitled to a statutory redundancy payment in the sum of £3,886.00.

1.2. The respondents made an unlawful deduction from the claimant's wages in the sum of £144.00. The respondent is ordered to pay the claimant the sum of £144.00.

1.3. The respondents failed to pay the claimant her statutory notice period or payment in lieu thereof. Her net pay was £144.00 per week and her entitlement over a 12 week statutory notice period is £1,728.00. The respondent is ordered to pay the claimant damages in the sum of £1,728.00.

1.4. The respondents failed to pay to the claimant her accrued and untaken holiday entitlement in the sum of 33 hours accruing at the national minimum wage of £7.20 from 5 April in the sum of £237.60. The respondent is ordered to pay to the claimant the sum of £237.60.

1.5. The respondent having failed to comply with the ACAS Code of Practice the awards at paragraphs 1.1 - 1.4 that I have made to the claimant are uplifted by 25% in accordance with the provisions of section 124A of the Employment Rights Act in the sum of £1,498.90. The respondent is ordered to pay to the claimant the further sum of £1498.90.

1.6. In the circumstances I award payment of both the issue and the Hearing fee to the claimant to be paid by the respondents in the sum of £390.00.

1.7 The respondent is ordered to pay compensation to the claimant in the grand total sum of £7494.50 in addition to fees in the sum of £390.00.

2 Mrs Edgington: Case Number 1302284/2016

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

2.1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment of £4,200.00.

2.2. The respondents failed to observe the ACAS code and I award a 25% uplift of the sums to which the claimant is entitled in accordance with the provisions of section 124A of the Employment Rights Act 1996, an uplift in the sum of £1,459.00.

2.3. The respondent is ordered to pay fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

2.4. The respondent is ordered to pay compensation to the claimant in the grand total sum of £5,659.00 in addition to fees in the sum of £390.00.

3 Mr B Taylor: Case Number 1302284/2016

3.1. Mr Taylor's complaint of unfair dismissal is withdrawn and stands dismissed.

3.2. The claimant was dismissed by reason of redundancy and is entitled to a statutory redundancy payment in the total sum of £4,824.00.

3.3. The respondents failed to pay the claimant his statutory entitlement to notice or payment in lieu thereof, a statutory entitlement of £1,920.00. The respondent is ordered to pay damages in the sum of £1,920.00.

3.4. The respondents failed to provide to the claimant a section 1 statement of change of terms and conditions of employment. The respondent is ordered to pay to the claimant compensation in the gross sum of £643.20.

3.5. The respondents failed to comply with the ACAS code and I award an uplift of the compensation payments of 25% in accordance to the provisions of section 124A of the Employment Rights Act 1996, an uplift of £1,686.00.

3.6. The respondent is ordered to pay fees incurred by the claimant in the issue of these proceedings £250.00 and an issue fee incurred for the unfair dismissal in the sum of £950.00, a total sum of £1,200.00

3.7. The respondent is ordered to pay compensation to the claimant in the grand total sum of £9,073.20 in addition to fees in the sum of £1,200.00.

4 Miss C Walsh: Case Number 1301759/2016

4.1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment in the sum of £5,467.00.

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

4.2. The respondents made unlawful deductions from the claimant's pay and the respondent is ordered to pay to the claimant the sum of £370.00.

4.3. The respondent failed to comply with the ACAS code and, in accordance with the provisions of section 124A of the Employment Rights Act 1996, I order that the payments to which the claimant is entitled be uplifted by 25% in the sum of £1,459.25.

4.4 The respondent is ordered to pay the fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

4.5 The respondent is ordered to pay compensation to the claimant in the grand total sum of £7,296.00 in addition to fees in the sum of £390.00.

5. Mrs J McKenry: Case Number 1302362/2016

5.1. The claimant is entitled to a statutory redundancy payment of £5,970.00.

5.2. The respondent is ordered to pay to the claimant compensation in lieu of her statutory notice period of 12 weeks' pay at £194.00 net, a total of £2,328.00. The respondent is ordered to pay to the claimant damages in the sum of £2,328.00.

5.3. The respondent made unlawful deductions from the claimant's pay in respect of a week in hand in the sum of £194.00. The respondent is ordered to pay to the claimant the sum of £194.00.

5.4. The respondent failed to pay to the claimant her accrued entitlement to holiday pay in respect of 54 hours in the total sum of £388.00. The respondent is ordered to pay to the claimant the sum of £388.00.

5.5. The respondent failed to observe the ACAS code and in accordance to the provisions of section 124A of the Employment Rights Act 1996, I award an uplift in the compensation award of 25%, the total sum of £2,220.00.

5.6. The respondent is required to pay the claimant's fees in the total sum of £390.00.

5.7 The respondent is ordered to pay compensation to the claimant in the grand total sum of £11,100.0 in addition to fees in the sum of £390.00.

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

REASONS

1. The judgment and the reasons for it were announced at the hearing of this case. The parties have requested that reasons for the Judgment be sent to them. I would apologise to the parties for the delay in forwarding the written Judgment and Reasons for it to them. The promulgation of the judgment was initially delayed by my judicial commitments and subsequently in 2017 by my prolonged absence from the Employment Tribunal because of ill health that prevented the judgment and reasons for it being sent to the parties.

2. By way of background the claimants were employed by a business that traded as Tennants Craft Bakery and they had all been long serving employees of the respondents when their employment came to an end unexpectedly when the business at the locations at which they were employed by the respondents ceased trading. In the circumstance Mrs Edgington's employment was terminated on 25 November 2015 and the remaining claimants' employment was terminated on 16 April 2016. The five cases have been consolidated by the Employment Tribunal as they involve the same employer and sadly the same or very similar circumstances where the employer has simply ceased trading and has terminated the claimants' employment.

3. None of the named respondents or any combination of them have entered a response to the complaints brought against them. I have heard evidence from each claimant, with the exception of Mrs J McKenry and as a result of their uncontested account I have made my findings of fact.

4. Mrs Brazier began employment with the respondents on 21 July 1992 as a bakery cleaner, Miss Walsh began employment on 15 April 2000 and Mrs Edgington as a Shop Manager at the Market Street shop in Hednesford on 22 July 1988, Mr B Taylor began employment as the Driver Assistant Baker working at the Wood Lane bakery on 9 November 1993 and Mrs J McKenry on 17 June 1986. It is starkly disappointing that such long serving employees were subject to the treatment by the respondents that they were. The claimants all worked for a good length of time with the previous owners of the respondent business, Mr Philip Tennant and Mrs Jane Tennant, who had spoken to their employees informing them that they were looking to sell the business in 2014. They had hoped that there would be a completion date on 30 September 2014 to transfer the business to Mr Carl and Mrs Debbie

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

Collins. In the event the claimants were given to understand that Mr and Mrs Collins chose to have the business put into the name of their daughter, Ms Melissa Collins, and the claimant were told that the sale of the business from Mr & Mrs Tennant to Ms Melissa Collins took place on Friday 24 October 2014. Notice confirming the change of the employer was posted for all staff members of Tennants Craft Bakery and was posted on the notice board. The claimant were informed that their employment was transferred to Ms Melissa Collins who continued to trade as Tennants Craft Bakery as identified in the notice (p.51). It would seem that Ms Collins initially managed, as well as owned, the bakery (p.52) writing to Mr Taylor identifying the rota systems. However, it would seem from all of the evidence I have heard from the four witnesses who gave evidence; Mrs Brazier, Mrs Edgington, Mr Taylor and Ms Walsh, that Ms Collins' interest in the bakery waned and her mother, Debbie Collins who worked as the administrator at the Wood Lane site and her father Mr Carl Collins, who increasingly increasingly managed the operation at all of the sites. Indeed Mrs Debbie Collins I am told was the tenant on a lease that was forfeited on non-payment of the rent and Mrs Edgington who was the Store Manager at the Market Street Bakers Shop was informed of that fact by the landlord when the shutters were put up on the closure of that shop on 20 November 2015.

5. One of the many issues I have to decide in this case is who was the employer of each of the claimants. Based upon the best information that has been given to me, although that is limited, it is apparent that Ms Melissa Collins from time to time when funds were low wrote personal cheques to pay salaries for a number of the employees as confirmed by Mrs Brazier's bank statements to that effect. Pay advice slips were issued to employees in the trading name of Tennants Craft Bakery. In the circumstances given Mrs Debbie Collins' management and day-to-day organisation of the business and the involvement in the running of the business by Mr Carl Tennant, it would appear that Tennants Craft Bakery was a family run business that had been put into the name of Melissa Collins and the owners of the business would appear in those circumstances to be jointly Melissa Collins, Debbie Collins and Carl Collins who I find to be jointly and severally liable as employers of each of the five claimants in this case.

6. Mrs McKenry has not attended the tribunal hearing to give evidence today. She relies upon the written documentation that she has submitted. At first glance Mrs McKenry's application to the tribunal would appear not to have been presented in time. Her employment terminated on 16 April 2016. She referred the case for early conciliation to ACAS on 17 June. A certificate was issued on 12 July and her claim was validly presented to the Employment Tribunal on 16 September. Further enquiries identified that the claim was

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

originally presented on 12 August 2016 but was not accompanied by the fee that was then due. It is clear however that Mrs McKenry's husband was at that time in hospital and the claimant did not have access to the internet but when she did she resubmitted her complaint which was presented on 16 September 2016. In light of the written representations that I have received I find in the circumstances it was not reasonably practicable for her to have presented a complaint within 3 months of the termination of her employment allowing for the adjusted dates with early conciliation. However, it was presented within such time as I consider reasonable and I find the tribunal has jurisdiction to entertain her complaint. I have considered the law in relation to presentation of complaints to an Employment Tribunal consistent with the provisions of s111(2) of the Employment Rights Act 1996.

7. Section 111(2) Employment Rights Act 1996 provides that a tribunal shall not consider a complaint that an employee was unfairly dismissed unless it is presented to the tribunal

(a) before the end of the period of three months beginning with the effective date of termination or

(b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for a complaint to be presented before the end of that period of three months.

The expression "not reasonably practicable" has been the subject of considerable judicial interpretation. I have considered the following authorities:-

Dedman -v- British Building and Engineering Applicances Ltd [1973]
IRLR 379 CA

Walls Meat Co Ltdv Khan [1979] ICR 52,CA

Marks & Spencer Plc -v- Williams-Ryan [2005] IRLR 563 CA

Consignia Plc -v- Sealy [2002]IRLR 624 (CA)

Initial Electronic Security Systems Ltd -v- Miss A Avdic UK EAT – 0281-05

Camden & Islington Community Services NHS Trust -v- Kennedy [1996] IRLR 381

Capital Foods Retail Ltd -v- Corrigan [1993] IRLR 430

Chohan -v Derby Law Centre [2004] IRLR 685

Having regard to the relevant authorities I consider that the complaint was not presented in time, it was not reasonably practicable for her to have done so. I find however it was presented within such further period as I consider to have been reasonable in the facts of the case.

8. Mrs Edgington's case is slightly different to that of the remaining four claimants. She was employed as a Shop Manager working at the Market

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

Street Bakery. She attended for work as she would have normally on 25 November 2015 to find that the premises was closed and that a notice had been placed on the door by the landlord as it had been seized by the landlord as a result of non-payment of rent by Debbie Collins who was the tenant. Mrs Edgington sought to pursue the respondents for her redundancy payment which was not forthcoming from them and following advice from ACAS she made a request that the Redundancy Payments Office through the Secretary of State should pay her redundancy entitlement. Sadly because Ms Melissa Collins trading as Tennants Craft Bakery was not bankrupt and the business was not insolvent payment was not made. Mrs Edgington latterly received confirmation from that service on 2 June 2016 that she would have to pursue her employer for the redundancy payment through the Employment Tribunal to get a judgment to the effect that her redundancy payment was rightly hers. A complaint was presented to the tribunal on 15 August 2016 within the extended time period of an additional 3 months from the time of the Secretary of State's decision. In the circumstances I find that the tribunal has jurisdiction to entertain the complaint.

9. Turning to the events that affected the remaining four claimants, the employees who worked at the bakery based at Wood Lane, Hednesford. The employees had been told that the Collins family were looking to relocate to more suitable premises and indeed the claimants have been led to believe that those premises would be to a location within Cannock in a place called Four Ashes. Mr Taylor understood that it might have been on an industrial estate but although he thought it was somewhat out of the way, he and indeed I have no doubt the other employees would have relocated to work at such a location. In the event on Saturday 16 April 2016 a number of articulated lorries attended at the Bakery, which baked bread as well as sold it at a small retail unit that in latter months had been closed. Towards the end of the morning, at around about 9.00am, the bakery, having opened much earlier to bake the bread, the ovens were taken away. Mr Taylor says that the transport lorries set off in the northerly direction and in fact the respondent business did not relocate to Four Ashes or anywhere locally.

10. The claimants were led to believe that the Collins family had relocated to an operation in Macclesfield. The claimants understood that the business had been sold to Basingtons Bakery Ltd, however, that party was sent correspondence from the tribunal and their response was that none of the employees were employed by that business nor had they any knowledge of the Tennants Craft Bakery. In the circumstances it is evident that the operation of a bakery at Wood Lane, Hednesford by Tennants Craft Bakery ceased with immediate effect on 16 April 2016. Sadly the respondents whether Melissa or Debbie Collins or indeed anyone within the family who

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

worked in the business deliberately appears to have misled the claimants as to their future employment. On 16 April 2016 the Collins family members had indicated that they would be in touch by text telling the claimants who had remained in their employment, where to go to work the following week. However no such text was received by any of the employees nor did any of the Collins family communicate with the claimants. The respondent behaved in much the way as they had ceased to communicate with Ms Edgington when her employment was summarily terminated in November 2015.

11. I find that the respondents have abjectly failed to comply with any of the standards of good industrial practice as commended by ACAS and although the employment was terminated by reason of redundancy on closure of the business that the Collins family operated and traded as Tennants Craft Bakery it was without doubt an unfair dismissal.

12. Mr Taylor is the only claimant who has claimed within time that he has been unfairly dismissed by the respondents. Mr Blitz acting on behalf of Mr Taylor, the only represented claimant, has indicated that in light of all the circumstances and in light of the redundancy situation on the closure of the business that was operated at Wood Lane it was not intended to pursue an unfair dismissal complaint at this hearing although the claim had originally been brought as such. The claim of unfair dismissal is dismissed on the withdrawal.

13. Having heard the evidence and in light of all of my findings I find that the employees were employed by Tennants Craft Bakery, a business trading under that name that was owned by the Collins family. The claimants were variously told that Melissa Collins was the owner and that Debbie Collins was a Manager having an interest in the business and Carl Collins assisted in the day to day running of the business. Absent any contractual documentation that was provided to the claimants by their employer I find those three individuals as family members of the Collins family who from time to time engaged in the management of the business were de facto jointly and severally liable as owners of the business at the relevant time.

14. Turning to the individual complaints I make the following findings of fact and in conclusion reach the judgments and award compensation as set out below.

Mrs Brazier

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. With regard to Mrs Brazier, I find that she was dismissed by reason of redundancy on 16 April 2016 and she is entitled to a statutory redundancy payment in the sum of £3,886.00.

2. I find that the respondents made an unlawful deduction from her wages in the sum of £144.00.

3. The respondents failed to pay the claimant her statutory notice period or payment in lieu thereof. Her net pay was £144.00 per week and her entitlement over a 12 week statutory notice period is £1,728.00.

4. The respondents failed to pay to the claimant her accrued and untaken holiday entitlement in the sum of 33 hours accruing at the national minimum wage of £7.20 from 5 April in the sum of £237.60.

5. I find the respondents abjectly failed to comply with the ACAS Code of Practice and the awards that I have made to the claimant are uplifted by 25% in accordance with the provisions of section 124A of the Employment Rights Act by the sum of £1,498.90.

6. In the circumstances I award payment of both the issue and the Hearing fee to the claimant to be paid by the respondents in the sum of £390.00.

Mrs Walsh

1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment having regard to her age of 62, 16 years service and a gross week's pay of £227.80 in the sum of £5,467.00.

2. The respondents made unlawful deductions from the claimant's pay and the respondent is ordered to pay to the claimant the sum of £370.00.

3. The respondent failed to comply with the ACAS code and in accordance with the provisions of section 124A of the Employment Rights Act 1996, I order that the payments to which the claimant is entitled be uplifted by 25% in the sum of £1,459.25. The respondent is ordered to pay the fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

Mrs Edgington

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. The claimant was dismissed by the respondents by reason of redundancy and having regard to her age of 42 having more than 20 years service her statutory redundancy entitlement is £271.00 by 15.5, a total redundancy payment of £4,200.00.

2. The respondents failed to observe the ACAS code and I award a 25% uplift of the sums to which the claimant is entitled in accordance with the provisions of section 124A of the Employment Rights Act 1996, an uplift in the sum of £1,459.00.

3. The respondent is ordered to pay fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

Mr Taylor

1. Mr Taylor originally pursued a complaint that he was unfairly dismissed by the respondents as well as a number of other complaints. Mr Blitz on behalf of the claimant has confirmed today that the claimant does not wish to pursue an unfair dismissal complaint acknowledging that the reason for termination of his employment was redundancy, a potentially fair reason for dismissal. In the circumstances the claim for unfair dismissal is dismissed.

2. The claimant is entitled to a statutory redundancy payment based upon the claimant's age and more than 20 years of service and a gross weekly pay of £160.80 in the total sum of £4,824.00.

3. The respondents failed to pay the claimant his statutory entitlement to notice or payment in lieu thereof, a statutory entitlement of £1,920.00.

4. The respondents failed to provide to the claimant a section 1 statement of change of terms and conditions of employment and I award 4 weeks' pay in the gross sum of £160.80, a total of £443.20.

5. The respondents failed abjectly to comply with the ACAS code and I award an uplift of the compensation payments of 25% in accordance to the provisions of section 124A of the Employment Rights Act 1996, an uplift of £1,686.00.

6. The respondent is ordered to pay fees incurred by the claimant in the issue of these proceedings £250.00 and an issue fee incurred for the unfair dismissal in the sum of £950.00, a total sum of £1,200.00

Mrs J McKenry

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. The claimant is entitled to a statutory redundancy pay based upon her age of 62 years, 20 years continuous employment and a gross weekly wage of £199.00, a redundancy payment of £5,970.00.

2. The respondent is ordered to pay to the claimant compensation in lieu of her statutory notice period of 12 weeks' pay at £194.00 net, a total of £2,328.00.

3. The respondents made unlawful deductions from the claimant's pay in respect of a week in hand in the sum of £194.00.

4. The respondent failed to pay to the claimant her accrued entitlement to holiday pay in respect of 54 hours in the total sum of £388.00.

5. The respondents failed to observe the ACAS code and in accordance to the provisions of section 124A of the Employment Rights Act 1996, I award an uplift in the compensation award of 25%, the total sum of £2,220.00.

6. The respondent is required to pay the claimant's fees in the total sum of £390.00

Employment Judge Dean
22 May 2017

Judgment sent to Parties on
23 May 2017

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016



VCD

EMPLOYMENT TRIBUNALS

Claimant

Respondent

(1) Mrs J Brazier

(2) Mrs M Edgington

(3) Mr B Taylor

(4) Miss C Walsh

(5) Mrs J McKenry

v R1) Tennants Craft Bakery

**(R2) Mrs Debbie Collins t/a Tennants
Craft Bakery**

**(R3) Mr Carl Collins t/a Tennants Craft
Bakery**

**(R4) Miss Melissa Collins t/a Tennants
Craft Bakery**

(R5) Tennants Craft Bakery Limited

Heard at: Birmingham

On: 28 November 2016

Before: Employment Judge Dean

Appearances:

For Claimants

(1) Mrs J Brazier: in person

(2) Mrs M Edgington: in person

(3) Mr B Taylor : Mr Blitz (acting on behalf for Mr Taylor)

(4) Miss C Walsh: in person

(5) Mrs J McKenry: no attendance, written submissions

For Respondents: No appearance

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

JUDGMENT

The judgment of the Tribunal is that the claimants and each of them were employed by the First, Second and Third Respondents jointly and severally trading as Tenants Craft Bakery.

1 Mrs J Brazier: Case Number 1301817/2016

1.1. Mrs Brazier was dismissed by reason of redundancy on 16 April 2016 and she is entitled to a statutory redundancy payment in the sum of £3,886.00.

1.2. The respondents made an unlawful deduction from the claimant's wages in the sum of £144.00. The respondent is ordered to pay the claimant the sum of £144.00.

1.3. The respondents failed to pay the claimant her statutory notice period or payment in lieu thereof. Her net pay was £144.00 per week and her entitlement over a 12 week statutory notice period is £1,728.00. The respondent is ordered to pay the claimant damages in the sum of £1,728.00.

1.4. The respondents failed to pay to the claimant her accrued and untaken holiday entitlement in the sum of 33 hours accruing at the national minimum wage of £7.20 from 5 April in the sum of £237.60. The respondent is ordered to pay to the claimant the sum of £237.60.

1.5. The respondent having failed to comply with the ACAS Code of Practice the awards at paragraphs 1.1 - 1.4 that I have made to the claimant are uplifted by 25% in accordance with the provisions of section 124A of the Employment Rights Act in the sum of £1,498.90. The respondent is ordered to pay to the claimant the further sum of £1498.90.

1.6. In the circumstances I award payment of both the issue and the Hearing fee to the claimant to be paid by the respondents in the sum of £390.00.

1.7 The respondent is ordered to pay compensation to the claimant in the grand total sum of £7494.50 in addition to fees in the sum of £390.00.

2 Mrs Edgington: Case Number 1302284/2016

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

2.1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment of £4,200.00.

2.2. The respondents failed to observe the ACAS code and I award a 25% uplift of the sums to which the claimant is entitled in accordance with the provisions of section 124A of the Employment Rights Act 1996, an uplift in the sum of £1,459.00.

2.3. The respondent is ordered to pay fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

2.4. The respondent is ordered to pay compensation to the claimant in the grand total sum of £5,659.00 in addition to fees in the sum of £390.00.

3 Mr B Taylor: Case Number 1302284/2016

3.1. Mr Taylor's complaint of unfair dismissal is withdrawn and stands dismissed.

3.2. The claimant was dismissed by reason of redundancy and is entitled to a statutory redundancy payment in the total sum of £4,824.00.

3.3. The respondents failed to pay the claimant his statutory entitlement to notice or payment in lieu thereof, a statutory entitlement of £1,920.00. The respondent is ordered to pay damages in the sum of £1,920.00.

3.4. The respondents failed to provide to the claimant a section 1 statement of change of terms and conditions of employment. The respondent is ordered to pay to the claimant compensation in the gross sum of £643.20.

3.5. The respondents failed to comply with the ACAS code and I award an uplift of the compensation payments of 25% in accordance to the provisions of section 124A of the Employment Rights Act 1996, an uplift of £1,686.00.

3.6. The respondent is ordered to pay fees incurred by the claimant in the issue of these proceedings £250.00 and an issue fee incurred for the unfair dismissal in the sum of £950.00, a total sum of £1,200.00

3.7. The respondent is ordered to pay compensation to the claimant in the grand total sum of £9,073.20 in addition to fees in the sum of £1,200.00.

4 Miss C Walsh: Case Number 1301759/2016

4.1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment in the sum of £5,467.00.

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

4.2. The respondents made unlawful deductions from the claimant's pay and the respondent is ordered to pay to the claimant the sum of £370.00.

4.3. The respondent failed to comply with the ACAS code and, in accordance with the provisions of section 124A of the Employment Rights Act 1996, I order that the payments to which the claimant is entitled be uplifted by 25% in the sum of £1,459.25.

4.4 The respondent is ordered to pay the fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

4.5 The respondent is ordered to pay compensation to the claimant in the grand total sum of £7,296.00 in addition to fees in the sum of £390.00.

5. Mrs J McKenry: Case Number 1302362/2016

5.1. The claimant is entitled to a statutory redundancy payment of £5,970.00.

5.2. The respondent is ordered to pay to the claimant compensation in lieu of her statutory notice period of 12 weeks' pay at £194.00 net, a total of £2,328.00. The respondent is ordered to pay to the claimant damages in the sum of £2,328.00.

5.3. The respondent made unlawful deductions from the claimant's pay in respect of a week in hand in the sum of £194.00. The respondent is ordered to pay to the claimant the sum of £194.00.

5.4. The respondent failed to pay to the claimant her accrued entitlement to holiday pay in respect of 54 hours in the total sum of £388.00. The respondent is ordered to pay to the claimant the sum of £388.00.

5.5. The respondent failed to observe the ACAS code and in accordance to the provisions of section 124A of the Employment Rights Act 1996, I award an uplift in the compensation award of 25%, the total sum of £2,220.00.

5.6. The respondent is required to pay the claimant's fees in the total sum of £390.00.

5.7 The respondent is ordered to pay compensation to the claimant in the grand total sum of £11,100.0 in addition to fees in the sum of £390.00.

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

REASONS

1. The judgment and the reasons for it were announced at the hearing of this case. The parties have requested that reasons for the Judgment be sent to them. I would apologise to the parties for the delay in forwarding the written Judgment and Reasons for it to them. The promulgation of the judgment was initially delayed by my judicial commitments and subsequently in 2017 by my prolonged absence from the Employment Tribunal because of ill health that prevented the judgment and reasons for it being sent to the parties.

2. By way of background the claimants were employed by a business that traded as Tennants Craft Bakery and they had all been long serving employees of the respondents when their employment came to an end unexpectedly when the business at the locations at which they were employed by the respondents ceased trading. In the circumstance Mrs Edgington's employment was terminated on 25 November 2015 and the remaining claimants' employment was terminated on 16 April 2016. The five cases have been consolidated by the Employment Tribunal as they involve the same employer and sadly the same or very similar circumstances where the employer has simply ceased trading and has terminated the claimants' employment.

3. None of the named respondents or any combination of them have entered a response to the complaints brought against them. I have heard evidence from each claimant, with the exception of Mrs J McKenry and as a result of their uncontested account I have made my findings of fact.

4. Mrs Brazier began employment with the respondents on 21 July 1992 as a bakery cleaner, Miss Walsh began employment on 15 April 2000 and Mrs Edgington as a Shop Manager at the Market Street shop in Hednesford on 22 July 1988, Mr B Taylor began employment as the Driver Assistant Baker working at the Wood Lane bakery on 9 November 1993 and Mrs J McKenry on 17 June 1986. It is starkly disappointing that such long serving employees were subject to the treatment by the respondents that they were. The claimants all worked for a good length of time with the previous owners of the respondent business, Mr Philip Tennant and Mrs Jane Tennant, who had spoken to their employees informing them that they were looking to sell the business in 2014. They had hoped that there would be a completion date on 30 September 2014 to transfer the business to Mr Carl and Mrs Debbie

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

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(5) 1302362/2016

Collins. In the event the claimants were given to understand that Mr and Mrs Collins chose to have the business put into the name of their daughter, Ms Melissa Collins, and the claimant were told that the sale of the business from Mr & Mrs Tennant to Ms Melissa Collins took place on Friday 24 October 2014. Notice confirming the change of the employer was posted for all staff members of Tennants Craft Bakery and was posted on the notice board. The claimant were informed that their employment was transferred to Ms Melissa Collins who continued to trade as Tennants Craft Bakery as identified in the notice (p.51). It would seem that Ms Collins initially managed, as well as owned, the bakery (p.52) writing to Mr Taylor identifying the rota systems. However, it would seem from all of the evidence I have heard from the four witnesses who gave evidence; Mrs Brazier, Mrs Edgington, Mr Taylor and Ms Walsh, that Ms Collins' interest in the bakery waned and her mother, Debbie Collins who worked as the administrator at the Wood Lane site and her father Mr Carl Collins, who increasingly increasingly managed the operation at all of the sites. Indeed Mrs Debbie Collins I am told was the tenant on a lease that was forfeited on non-payment of the rent and Mrs Edgington who was the Store Manager at the Market Street Bakers Shop was informed of that fact by the landlord when the shutters were put up on the closure of that shop on 20 November 2015.

5. One of the many issues I have to decide in this case is who was the employer of each of the claimants. Based upon the best information that has been given to me, although that is limited, it is apparent that Ms Melissa Collins from time to time when funds were low wrote personal cheques to pay salaries for a number of the employees as confirmed by Mrs Brazier's bank statements to that effect. Pay advice slips were issued to employees in the trading name of Tennants Craft Bakery. In the circumstances given Mrs Debbie Collins' management and day-to-day organisation of the business and the involvement in the running of the business by Mr Carl Tennant, it would appear that Tennants Craft Bakery was a family run business that had been put into the name of Melissa Collins and the owners of the business would appear in those circumstances to be jointly Melissa Collins, Debbie Collins and Carl Collins who I find to be jointly and severally liable as employers of each of the five claimants in this case.

6. Mrs McKenry has not attended the tribunal hearing to give evidence today. She relies upon the written documentation that she has submitted. At first glance Mrs McKenry's application to the tribunal would appear not to have been presented in time. Her employment terminated on 16 April 2016. She referred the case for early conciliation to ACAS on 17 June. A certificate was issued on 12 July and her claim was validly presented to the Employment Tribunal on 16 September. Further enquiries identified that the claim was

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

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(4) 1301759/2016

(5) 1302362/2016

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7. Section 111(2) Employment Rights Act 1996 provides that a tribunal shall not consider a complaint that an employee was unfairly dismissed unless it is presented to the tribunal

(a) before the end of the period of three months beginning with the effective date of termination or

(b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for a complaint to be presented before the end of that period of three months.

The expression "not reasonably practicable" has been the subject of considerable judicial interpretation. I have considered the following authorities:-

Dedman -v- British Building and Engineering Applicances Ltd [1973]
IRLR 379 CA

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Chohan -v Derby Law Centre [2004] IRLR 685

Having regard to the relevant authorities I consider that the complaint was not presented in time, it was not reasonably practicable for her to have done so. I find however it was presented within such further period as I consider to have been reasonable in the facts of the case.

8. Mrs Edgington's case is slightly different to that of the remaining four claimants. She was employed as a Shop Manager working at the Market

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

Street Bakery. She attended for work as she would have normally on 25 November 2015 to find that the premises was closed and that a notice had been placed on the door by the landlord as it had been seized by the landlord as a result of non-payment of rent by Debbie Collins who was the tenant. Mrs Edgington sought to pursue the respondents for her redundancy payment which was not forthcoming from them and following advice from ACAS she made a request that the Redundancy Payments Office through the Secretary of State should pay her redundancy entitlement. Sadly because Ms Melissa Collins trading as Tennants Craft Bakery was not bankrupt and the business was not insolvent payment was not made. Mrs Edgington latterly received confirmation from that service on 2 June 2016 that she would have to pursue her employer for the redundancy payment through the Employment Tribunal to get a judgment to the effect that her redundancy payment was rightly hers. A complaint was presented to the tribunal on 15 August 2016 within the extended time period of an additional 3 months from the time of the Secretary of State's decision. In the circumstances I find that the tribunal has jurisdiction to entertain the complaint.

9. Turning to the events that affected the remaining four claimants, the employees who worked at the bakery based at Wood Lane, Hednesford. The employees had been told that the Collins family were looking to relocate to more suitable premises and indeed the claimants have been led to believe that those premises would be to a location within Cannock in a place called Four Ashes. Mr Taylor understood that it might have been on an industrial estate but although he thought it was somewhat out of the way, he and indeed I have no doubt the other employees would have relocated to work at such a location. In the event on Saturday 16 April 2016 a number of articulated lorries attended at the Bakery, which baked bread as well as sold it at a small retail unit that in latter months had been closed. Towards the end of the morning, at around about 9.00am, the bakery, having opened much earlier to bake the bread, the ovens were taken away. Mr Taylor says that the transport lorries set off in the northerly direction and in fact the respondent business did not relocate to Four Ashes or anywhere locally.

10. The claimants were led to believe that the Collins family had relocated to an operation in Macclesfield. The claimants understood that the business had been sold to Basingtons Bakery Ltd, however, that party was sent correspondence from the tribunal and their response was that none of the employees were employed by that business nor had they any knowledge of the Tennants Craft Bakery. In the circumstances it is evident that the operation of a bakery at Wood Lane, Hednesford by Tennants Craft Bakery ceased with immediate effect on 16 April 2016. Sadly the respondents whether Melissa or Debbie Collins or indeed anyone within the family who

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

worked in the business deliberately appears to have misled the claimants as to their future employment. On 16 April 2016 the Collins family members had indicated that they would be in touch by text telling the claimants who had remained in their employment, where to go to work the following week. However no such text was received by any of the employees nor did any of the Collins family communicate with the claimants. The respondent behaved in much the way as they had ceased to communicate with Ms Edgington when her employment was summarily terminated in November 2015.

11. I find that the respondents have abjectly failed to comply with any of the standards of good industrial practice as commended by ACAS and although the employment was terminated by reason of redundancy on closure of the business that the Collins family operated and traded as Tennants Craft Bakery it was without doubt an unfair dismissal.

12. Mr Taylor is the only claimant who has claimed within time that he has been unfairly dismissed by the respondents. Mr Blitz acting on behalf of Mr Taylor, the only represented claimant, has indicated that in light of all the circumstances and in light of the redundancy situation on the closure of the business that was operated at Wood Lane it was not intended to pursue an unfair dismissal complaint at this hearing although the claim had originally been brought as such. The claim of unfair dismissal is dismissed on the withdrawal.

13. Having heard the evidence and in light of all of my findings I find that the employees were employed by Tennants Craft Bakery, a business trading under that name that was owned by the Collins family. The claimants were variously told that Melissa Collins was the owner and that Debbie Collins was a Manager having an interest in the business and Carl Collins assisted in the day to day running of the business. Absent any contractual documentation that was provided to the claimants by their employer I find those three individuals as family members of the Collins family who from time to time engaged in the management of the business were de facto jointly and severally liable as owners of the business at the relevant time.

14. Turning to the individual complaints I make the following findings of fact and in conclusion reach the judgments and award compensation as set out below.

Mrs Brazier

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. With regard to Mrs Brazier, I find that she was dismissed by reason of redundancy on 16 April 2016 and she is entitled to a statutory redundancy payment in the sum of £3,886.00.

2. I find that the respondents made an unlawful deduction from her wages in the sum of £144.00.

3. The respondents failed to pay the claimant her statutory notice period or payment in lieu thereof. Her net pay was £144.00 per week and her entitlement over a 12 week statutory notice period is £1,728.00.

4. The respondents failed to pay to the claimant her accrued and untaken holiday entitlement in the sum of 33 hours accruing at the national minimum wage of £7.20 from 5 April in the sum of £237.60.

5. I find the respondents abjectly failed to comply with the ACAS Code of Practice and the awards that I have made to the claimant are uplifted by 25% in accordance with the provisions of section 124A of the Employment Rights Act by the sum of £1,498.90.

6. In the circumstances I award payment of both the issue and the Hearing fee to the claimant to be paid by the respondents in the sum of £390.00.

Mrs Walsh

1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment having regard to her age of 62, 16 years service and a gross week's pay of £227.80 in the sum of £5,467.00.

2. The respondents made unlawful deductions from the claimant's pay and the respondent is ordered to pay to the claimant the sum of £370.00.

3. The respondent failed to comply with the ACAS code and in accordance with the provisions of section 124A of the Employment Rights Act 1996, I order that the payments to which the claimant is entitled be uplifted by 25% in the sum of £1,459.25. The respondent is ordered to pay the fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

Mrs Edgington

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. The claimant was dismissed by the respondents by reason of redundancy and having regard to her age of 42 having more than 20 years service her statutory redundancy entitlement is £271.00 by 15.5, a total redundancy payment of £4,200.00.

2. The respondents failed to observe the ACAS code and I award a 25% uplift of the sums to which the claimant is entitled in accordance with the provisions of section 124A of the Employment Rights Act 1996, an uplift in the sum of £1,459.00.

3. The respondent is ordered to pay fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

Mr Taylor

1. Mr Taylor originally pursued a complaint that he was unfairly dismissed by the respondents as well as a number of other complaints. Mr Blitz on behalf of the claimant has confirmed today that the claimant does not wish to pursue an unfair dismissal complaint acknowledging that the reason for termination of his employment was redundancy, a potentially fair reason for dismissal. In the circumstances the claim for unfair dismissal is dismissed.

2. The claimant is entitled to a statutory redundancy payment based upon the claimant's age and more than 20 years of service and a gross weekly pay of £160.80 in the total sum of £4,824.00.

3. The respondents failed to pay the claimant his statutory entitlement to notice or payment in lieu thereof, a statutory entitlement of £1,920.00.

4. The respondents failed to provide to the claimant a section 1 statement of change of terms and conditions of employment and I award 4 weeks' pay in the gross sum of £160.80, a total of £443.20.

5. The respondents failed abjectly to comply with the ACAS code and I award an uplift of the compensation payments of 25% in accordance to the provisions of section 124A of the Employment Rights Act 1996, an uplift of £1,686.00.

6. The respondent is ordered to pay fees incurred by the claimant in the issue of these proceedings £250.00 and an issue fee incurred for the unfair dismissal in the sum of £950.00, a total sum of £1,200.00

Mrs J McKenry

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. The claimant is entitled to a statutory redundancy pay based upon her age of 62 years, 20 years continuous employment and a gross weekly wage of £199.00, a redundancy payment of £5,970.00.

2. The respondent is ordered to pay to the claimant compensation in lieu of her statutory notice period of 12 weeks' pay at £194.00 net, a total of £2,328.00.

3. The respondents made unlawful deductions from the claimant's pay in respect of a week in hand in the sum of £194.00.

4. The respondent failed to pay to the claimant her accrued entitlement to holiday pay in respect of 54 hours in the total sum of £388.00.

5. The respondents failed to observe the ACAS code and in accordance to the provisions of section 124A of the Employment Rights Act 1996, I award an uplift in the compensation award of 25%, the total sum of £2,220.00.

6. The respondent is required to pay the claimant's fees in the total sum of £390.00

Employment Judge Dean
22 May 2017

Judgment sent to Parties on
23 May 2017

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016



VCD

EMPLOYMENT TRIBUNALS

Claimant

Respondent

(1) Mrs J Brazier

(2) Mrs M Edgington

(3) Mr B Taylor

(4) Miss C Walsh

(5) Mrs J McKenry

v R1) Tennants Craft Bakery

**(R2) Mrs Debbie Collins t/a Tennants
Craft Bakery**

**(R3) Mr Carl Collins t/a Tennants Craft
Bakery**

**(R4) Miss Melissa Collins t/a Tennants
Craft Bakery**

(R5) Tennants Craft Bakery Limited

Heard at: Birmingham

On: 28 November 2016

Before: Employment Judge Dean

Appearances:

For Claimants

(1) Mrs J Brazier: in person

(2) Mrs M Edgington: in person

(3) Mr B Taylor : Mr Blitz (acting on behalf for Mr Taylor)

(4) Miss C Walsh: in person

(5) Mrs J McKenry: no attendance, written submissions

For Respondents: No appearance

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

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(4) 1301759/2016

(5) 1302362/2016

JUDGMENT

The judgment of the Tribunal is that the claimants and each of them were employed by the First, Second and Third Respondents jointly and severally trading as Tenants Craft Bakery.

1 Mrs J Brazier: Case Number 1301817/2016

1.1. Mrs Brazier was dismissed by reason of redundancy on 16 April 2016 and she is entitled to a statutory redundancy payment in the sum of £3,886.00.

1.2. The respondents made an unlawful deduction from the claimant's wages in the sum of £144.00. The respondent is ordered to pay the claimant the sum of £144.00.

1.3. The respondents failed to pay the claimant her statutory notice period or payment in lieu thereof. Her net pay was £144.00 per week and her entitlement over a 12 week statutory notice period is £1,728.00. The respondent is ordered to pay the claimant damages in the sum of £1,728.00.

1.4. The respondents failed to pay to the claimant her accrued and untaken holiday entitlement in the sum of 33 hours accruing at the national minimum wage of £7.20 from 5 April in the sum of £237.60. The respondent is ordered to pay to the claimant the sum of £237.60.

1.5. The respondent having failed to comply with the ACAS Code of Practice the awards at paragraphs 1.1 - 1.4 that I have made to the claimant are uplifted by 25% in accordance with the provisions of section 124A of the Employment Rights Act in the sum of £1,498.90. The respondent is ordered to pay to the claimant the further sum of £1498.90.

1.6. In the circumstances I award payment of both the issue and the Hearing fee to the claimant to be paid by the respondents in the sum of £390.00.

1.7 The respondent is ordered to pay compensation to the claimant in the grand total sum of £7494.50 in addition to fees in the sum of £390.00.

2 Mrs Edgington: Case Number 1302284/2016

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

2.1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment of £4,200.00.

2.2. The respondents failed to observe the ACAS code and I award a 25% uplift of the sums to which the claimant is entitled in accordance with the provisions of section 124A of the Employment Rights Act 1996, an uplift in the sum of £1,459.00.

2.3. The respondent is ordered to pay fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

2.4. The respondent is ordered to pay compensation to the claimant in the grand total sum of £5,659.00 in addition to fees in the sum of £390.00.

3 Mr B Taylor: Case Number 1302284/2016

3.1. Mr Taylor's complaint of unfair dismissal is withdrawn and stands dismissed.

3.2. The claimant was dismissed by reason of redundancy and is entitled to a statutory redundancy payment in the total sum of £4,824.00.

3.3. The respondents failed to pay the claimant his statutory entitlement to notice or payment in lieu thereof, a statutory entitlement of £1,920.00. The respondent is ordered to pay damages in the sum of £1,920.00.

3.4. The respondents failed to provide to the claimant a section 1 statement of change of terms and conditions of employment. The respondent is ordered to pay to the claimant compensation in the gross sum of £643.20.

3.5. The respondents failed to comply with the ACAS code and I award an uplift of the compensation payments of 25% in accordance to the provisions of section 124A of the Employment Rights Act 1996, an uplift of £1,686.00.

3.6. The respondent is ordered to pay fees incurred by the claimant in the issue of these proceedings £250.00 and an issue fee incurred for the unfair dismissal in the sum of £950.00, a total sum of £1,200.00

3.7. The respondent is ordered to pay compensation to the claimant in the grand total sum of £9,073.20 in addition to fees in the sum of £1,200.00.

4 Miss C Walsh: Case Number 1301759/2016

4.1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment in the sum of £5,467.00.

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

4.2. The respondents made unlawful deductions from the claimant's pay and the respondent is ordered to pay to the claimant the sum of £370.00.

4.3. The respondent failed to comply with the ACAS code and, in accordance with the provisions of section 124A of the Employment Rights Act 1996, I order that the payments to which the claimant is entitled be uplifted by 25% in the sum of £1,459.25.

4.4 The respondent is ordered to pay the fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

4.5 The respondent is ordered to pay compensation to the claimant in the grand total sum of £7,296.00 in addition to fees in the sum of £390.00.

5. Mrs J McKenry: Case Number 1302362/2016

5.1. The claimant is entitled to a statutory redundancy payment of £5,970.00.

5.2. The respondent is ordered to pay to the claimant compensation in lieu of her statutory notice period of 12 weeks' pay at £194.00 net, a total of £2,328.00. The respondent is ordered to pay to the claimant damages in the sum of £2,328.00.

5.3. The respondent made unlawful deductions from the claimant's pay in respect of a week in hand in the sum of £194.00. The respondent is ordered to pay to the claimant the sum of £194.00.

5.4. The respondent failed to pay to the claimant her accrued entitlement to holiday pay in respect of 54 hours in the total sum of £388.00. The respondent is ordered to pay to the claimant the sum of £388.00.

5.5. The respondent failed to observe the ACAS code and in accordance to the provisions of section 124A of the Employment Rights Act 1996, I award an uplift in the compensation award of 25%, the total sum of £2,220.00.

5.6. The respondent is required to pay the claimant's fees in the total sum of £390.00.

5.7 The respondent is ordered to pay compensation to the claimant in the grand total sum of £11,100.0 in addition to fees in the sum of £390.00.

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

REASONS

1. The judgment and the reasons for it were announced at the hearing of this case. The parties have requested that reasons for the Judgment be sent to them. I would apologise to the parties for the delay in forwarding the written Judgment and Reasons for it to them. The promulgation of the judgment was initially delayed by my judicial commitments and subsequently in 2017 by my prolonged absence from the Employment Tribunal because of ill health that prevented the judgment and reasons for it being sent to the parties.

2. By way of background the claimants were employed by a business that traded as Tennants Craft Bakery and they had all been long serving employees of the respondents when their employment came to an end unexpectedly when the business at the locations at which they were employed by the respondents ceased trading. In the circumstance Mrs Edgington's employment was terminated on 25 November 2015 and the remaining claimants' employment was terminated on 16 April 2016. The five cases have been consolidated by the Employment Tribunal as they involve the same employer and sadly the same or very similar circumstances where the employer has simply ceased trading and has terminated the claimants' employment.

3. None of the named respondents or any combination of them have entered a response to the complaints brought against them. I have heard evidence from each claimant, with the exception of Mrs J McKenry and as a result of their uncontested account I have made my findings of fact.

4. Mrs Brazier began employment with the respondents on 21 July 1992 as a bakery cleaner, Miss Walsh began employment on 15 April 2000 and Mrs Edgington as a Shop Manager at the Market Street shop in Hednesford on 22 July 1988, Mr B Taylor began employment as the Driver Assistant Baker working at the Wood Lane bakery on 9 November 1993 and Mrs J McKenry on 17 June 1986. It is starkly disappointing that such long serving employees were subject to the treatment by the respondents that they were. The claimants all worked for a good length of time with the previous owners of the respondent business, Mr Philip Tennant and Mrs Jane Tennant, who had spoken to their employees informing them that they were looking to sell the business in 2014. They had hoped that there would be a completion date on 30 September 2014 to transfer the business to Mr Carl and Mrs Debbie

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

Collins. In the event the claimants were given to understand that Mr and Mrs Collins chose to have the business put into the name of their daughter, Ms Melissa Collins, and the claimant were told that the sale of the business from Mr & Mrs Tennant to Ms Melissa Collins took place on Friday 24 October 2014. Notice confirming the change of the employer was posted for all staff members of Tennants Craft Bakery and was posted on the notice board. The claimant were informed that their employment was transferred to Ms Melissa Collins who continued to trade as Tennants Craft Bakery as identified in the notice (p.51). It would seem that Ms Collins initially managed, as well as owned, the bakery (p.52) writing to Mr Taylor identifying the rota systems. However, it would seem from all of the evidence I have heard from the four witnesses who gave evidence; Mrs Brazier, Mrs Edgington, Mr Taylor and Ms Walsh, that Ms Collins' interest in the bakery waned and her mother, Debbie Collins who worked as the administrator at the Wood Lane site and her father Mr Carl Collins, who increasingly increasingly managed the operation at all of the sites. Indeed Mrs Debbie Collins I am told was the tenant on a lease that was forfeited on non-payment of the rent and Mrs Edgington who was the Store Manager at the Market Street Bakers Shop was informed of that fact by the landlord when the shutters were put up on the closure of that shop on 20 November 2015.

5. One of the many issues I have to decide in this case is who was the employer of each of the claimants. Based upon the best information that has been given to me, although that is limited, it is apparent that Ms Melissa Collins from time to time when funds were low wrote personal cheques to pay salaries for a number of the employees as confirmed by Mrs Brazier's bank statements to that effect. Pay advice slips were issued to employees in the trading name of Tennants Craft Bakery. In the circumstances given Mrs Debbie Collins' management and day-to-day organisation of the business and the involvement in the running of the business by Mr Carl Tennant, it would appear that Tennants Craft Bakery was a family run business that had been put into the name of Melissa Collins and the owners of the business would appear in those circumstances to be jointly Melissa Collins, Debbie Collins and Carl Collins who I find to be jointly and severally liable as employers of each of the five claimants in this case.

6. Mrs McKenry has not attended the tribunal hearing to give evidence today. She relies upon the written documentation that she has submitted. At first glance Mrs McKenry's application to the tribunal would appear not to have been presented in time. Her employment terminated on 16 April 2016. She referred the case for early conciliation to ACAS on 17 June. A certificate was issued on 12 July and her claim was validly presented to the Employment Tribunal on 16 September. Further enquiries identified that the claim was

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

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originally presented on 12 August 2016 but was not accompanied by the fee that was then due. It is clear however that Mrs McKenry's husband was at that time in hospital and the claimant did not have access to the internet but when she did she resubmitted her complaint which was presented on 16 September 2016. In light of the written representations that I have received I find in the circumstances it was not reasonably practicable for her to have presented a complaint within 3 months of the termination of her employment allowing for the adjusted dates with early conciliation. However, it was presented within such time as I consider reasonable and I find the tribunal has jurisdiction to entertain her complaint. I have considered the law in relation to presentation of complaints to an Employment Tribunal consistent with the provisions of s111(2) of the Employment Rights Act 1996.

7. Section 111(2) Employment Rights Act 1996 provides that a tribunal shall not consider a complaint that an employee was unfairly dismissed unless it is presented to the tribunal

(a) before the end of the period of three months beginning with the effective date of termination or

(b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for a complaint to be presented before the end of that period of three months.

The expression "not reasonably practicable" has been the subject of considerable judicial interpretation. I have considered the following authorities:-

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Camden & Islington Community Services NHS Trust -v- Kennedy [1996] IRLR 381

Capital Foods Retail Ltd -v- Corrigan [1993] IRLR 430

Chohan -v Derby Law Centre [2004] IRLR 685

Having regard to the relevant authorities I consider that the complaint was not presented in time, it was not reasonably practicable for her to have done so. I find however it was presented within such further period as I consider to have been reasonable in the facts of the case.

8. Mrs Edgington's case is slightly different to that of the remaining four claimants. She was employed as a Shop Manager working at the Market

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

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Street Bakery. She attended for work as she would have normally on 25 November 2015 to find that the premises was closed and that a notice had been placed on the door by the landlord as it had been seized by the landlord as a result of non-payment of rent by Debbie Collins who was the tenant. Mrs Edgington sought to pursue the respondents for her redundancy payment which was not forthcoming from them and following advice from ACAS she made a request that the Redundancy Payments Office through the Secretary of State should pay her redundancy entitlement. Sadly because Ms Melissa Collins trading as Tennants Craft Bakery was not bankrupt and the business was not insolvent payment was not made. Mrs Edgington latterly received confirmation from that service on 2 June 2016 that she would have to pursue her employer for the redundancy payment through the Employment Tribunal to get a judgment to the effect that her redundancy payment was rightly hers. A complaint was presented to the tribunal on 15 August 2016 within the extended time period of an additional 3 months from the time of the Secretary of State's decision. In the circumstances I find that the tribunal has jurisdiction to entertain the complaint.

9. Turning to the events that affected the remaining four claimants, the employees who worked at the bakery based at Wood Lane, Hednesford. The employees had been told that the Collins family were looking to relocate to more suitable premises and indeed the claimants have been led to believe that those premises would be to a location within Cannock in a place called Four Ashes. Mr Taylor understood that it might have been on an industrial estate but although he thought it was somewhat out of the way, he and indeed I have no doubt the other employees would have relocated to work at such a location. In the event on Saturday 16 April 2016 a number of articulated lorries attended at the Bakery, which baked bread as well as sold it at a small retail unit that in latter months had been closed. Towards the end of the morning, at around about 9.00am, the bakery, having opened much earlier to bake the bread, the ovens were taken away. Mr Taylor says that the transport lorries set off in the northerly direction and in fact the respondent business did not relocate to Four Ashes or anywhere locally.

10. The claimants were led to believe that the Collins family had relocated to an operation in Macclesfield. The claimants understood that the business had been sold to Basingtons Bakery Ltd, however, that party was sent correspondence from the tribunal and their response was that none of the employees were employed by that business nor had they any knowledge of the Tennants Craft Bakery. In the circumstances it is evident that the operation of a bakery at Wood Lane, Hednesford by Tennants Craft Bakery ceased with immediate effect on 16 April 2016. Sadly the respondents whether Melissa or Debbie Collins or indeed anyone within the family who

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

worked in the business deliberately appears to have misled the claimants as to their future employment. On 16 April 2016 the Collins family members had indicated that they would be in touch by text telling the claimants who had remained in their employment, where to go to work the following week. However no such text was received by any of the employees nor did any of the Collins family communicate with the claimants. The respondent behaved in much the way as they had ceased to communicate with Ms Edgington when her employment was summarily terminated in November 2015.

11. I find that the respondents have abjectly failed to comply with any of the standards of good industrial practice as commended by ACAS and although the employment was terminated by reason of redundancy on closure of the business that the Collins family operated and traded as Tennants Craft Bakery it was without doubt an unfair dismissal.

12. Mr Taylor is the only claimant who has claimed within time that he has been unfairly dismissed by the respondents. Mr Blitz acting on behalf of Mr Taylor, the only represented claimant, has indicated that in light of all the circumstances and in light of the redundancy situation on the closure of the business that was operated at Wood Lane it was not intended to pursue an unfair dismissal complaint at this hearing although the claim had originally been brought as such. The claim of unfair dismissal is dismissed on the withdrawal.

13. Having heard the evidence and in light of all of my findings I find that the employees were employed by Tennants Craft Bakery, a business trading under that name that was owned by the Collins family. The claimants were variously told that Melissa Collins was the owner and that Debbie Collins was a Manager having an interest in the business and Carl Collins assisted in the day to day running of the business. Absent any contractual documentation that was provided to the claimants by their employer I find those three individuals as family members of the Collins family who from time to time engaged in the management of the business were de facto jointly and severally liable as owners of the business at the relevant time.

14. Turning to the individual complaints I make the following findings of fact and in conclusion reach the judgments and award compensation as set out below.

Mrs Brazier

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. With regard to Mrs Brazier, I find that she was dismissed by reason of redundancy on 16 April 2016 and she is entitled to a statutory redundancy payment in the sum of £3,886.00.

2. I find that the respondents made an unlawful deduction from her wages in the sum of £144.00.

3. The respondents failed to pay the claimant her statutory notice period or payment in lieu thereof. Her net pay was £144.00 per week and her entitlement over a 12 week statutory notice period is £1,728.00.

4. The respondents failed to pay to the claimant her accrued and untaken holiday entitlement in the sum of 33 hours accruing at the national minimum wage of £7.20 from 5 April in the sum of £237.60.

5. I find the respondents abjectly failed to comply with the ACAS Code of Practice and the awards that I have made to the claimant are uplifted by 25% in accordance with the provisions of section 124A of the Employment Rights Act by the sum of £1,498.90.

6. In the circumstances I award payment of both the issue and the Hearing fee to the claimant to be paid by the respondents in the sum of £390.00.

Mrs Walsh

1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment having regard to her age of 62, 16 years service and a gross week's pay of £227.80 in the sum of £5,467.00.

2. The respondents made unlawful deductions from the claimant's pay and the respondent is ordered to pay to the claimant the sum of £370.00.

3. The respondent failed to comply with the ACAS code and in accordance with the provisions of section 124A of the Employment Rights Act 1996, I order that the payments to which the claimant is entitled be uplifted by 25% in the sum of £1,459.25. The respondent is ordered to pay the fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

Mrs Edgington

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. The claimant was dismissed by the respondents by reason of redundancy and having regard to her age of 42 having more than 20 years service her statutory redundancy entitlement is £271.00 by 15.5, a total redundancy payment of £4,200.00.

2. The respondents failed to observe the ACAS code and I award a 25% uplift of the sums to which the claimant is entitled in accordance with the provisions of section 124A of the Employment Rights Act 1996, an uplift in the sum of £1,459.00.

3. The respondent is ordered to pay fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

Mr Taylor

1. Mr Taylor originally pursued a complaint that he was unfairly dismissed by the respondents as well as a number of other complaints. Mr Blitz on behalf of the claimant has confirmed today that the claimant does not wish to pursue an unfair dismissal complaint acknowledging that the reason for termination of his employment was redundancy, a potentially fair reason for dismissal. In the circumstances the claim for unfair dismissal is dismissed.

2. The claimant is entitled to a statutory redundancy payment based upon the claimant's age and more than 20 years of service and a gross weekly pay of £160.80 in the total sum of £4,824.00.

3. The respondents failed to pay the claimant his statutory entitlement to notice or payment in lieu thereof, a statutory entitlement of £1,920.00.

4. The respondents failed to provide to the claimant a section 1 statement of change of terms and conditions of employment and I award 4 weeks' pay in the gross sum of £160.80, a total of £443.20.

5. The respondents failed abjectly to comply with the ACAS code and I award an uplift of the compensation payments of 25% in accordance to the provisions of section 124A of the Employment Rights Act 1996, an uplift of £1,686.00.

6. The respondent is ordered to pay fees incurred by the claimant in the issue of these proceedings £250.00 and an issue fee incurred for the unfair dismissal in the sum of £950.00, a total sum of £1,200.00

Mrs J McKenry

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. The claimant is entitled to a statutory redundancy pay based upon her age of 62 years, 20 years continuous employment and a gross weekly wage of £199.00, a redundancy payment of £5,970.00.

2. The respondent is ordered to pay to the claimant compensation in lieu of her statutory notice period of 12 weeks' pay at £194.00 net, a total of £2,328.00.

3. The respondents made unlawful deductions from the claimant's pay in respect of a week in hand in the sum of £194.00.

4. The respondent failed to pay to the claimant her accrued entitlement to holiday pay in respect of 54 hours in the total sum of £388.00.

5. The respondents failed to observe the ACAS code and in accordance to the provisions of section 124A of the Employment Rights Act 1996, I award an uplift in the compensation award of 25%, the total sum of £2,220.00.

6. The respondent is required to pay the claimant's fees in the total sum of £390.00

Employment Judge Dean
22 May 2017

Judgment sent to Parties on
23 May 2017

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016



VCD

EMPLOYMENT TRIBUNALS

Claimant

Respondent

(1) Mrs J Brazier

(2) Mrs M Edgington

(3) Mr B Taylor

(4) Miss C Walsh

(5) Mrs J McKenry

v R1) Tennants Craft Bakery

**(R2) Mrs Debbie Collins t/a Tennants
Craft Bakery**

**(R3) Mr Carl Collins t/a Tennants Craft
Bakery**

**(R4) Miss Melissa Collins t/a Tennants
Craft Bakery**

(R5) Tennants Craft Bakery Limited

Heard at: Birmingham

On: 28 November 2016

Before: Employment Judge Dean

Appearances:

For Claimants

(1) Mrs J Brazier: in person

(2) Mrs M Edgington: in person

(3) Mr B Taylor : Mr Blitz (acting on behalf for Mr Taylor)

(4) Miss C Walsh: in person

(5) Mrs J McKenry: no attendance, written submissions

For Respondents: No appearance

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

JUDGMENT

The judgment of the Tribunal is that the claimants and each of them were employed by the First, Second and Third Respondents jointly and severally trading as Tenants Craft Bakery.

1 Mrs J Brazier: Case Number 1301817/2016

1.1. Mrs Brazier was dismissed by reason of redundancy on 16 April 2016 and she is entitled to a statutory redundancy payment in the sum of £3,886.00.

1.2. The respondents made an unlawful deduction from the claimant's wages in the sum of £144.00. The respondent is ordered to pay the claimant the sum of £144.00.

1.3. The respondents failed to pay the claimant her statutory notice period or payment in lieu thereof. Her net pay was £144.00 per week and her entitlement over a 12 week statutory notice period is £1,728.00. The respondent is ordered to pay the claimant damages in the sum of £1,728.00.

1.4. The respondents failed to pay to the claimant her accrued and untaken holiday entitlement in the sum of 33 hours accruing at the national minimum wage of £7.20 from 5 April in the sum of £237.60. The respondent is ordered to pay to the claimant the sum of £237.60.

1.5. The respondent having failed to comply with the ACAS Code of Practice the awards at paragraphs 1.1 - 1.4 that I have made to the claimant are uplifted by 25% in accordance with the provisions of section 124A of the Employment Rights Act in the sum of £1,498.90. The respondent is ordered to pay to the claimant the further sum of £1498.90.

1.6. In the circumstances I award payment of both the issue and the Hearing fee to the claimant to be paid by the respondents in the sum of £390.00.

1.7 The respondent is ordered to pay compensation to the claimant in the grand total sum of £7494.50 in addition to fees in the sum of £390.00.

2 Mrs Edgington: Case Number 1302284/2016

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

2.1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment of £4,200.00.

2.2. The respondents failed to observe the ACAS code and I award a 25% uplift of the sums to which the claimant is entitled in accordance with the provisions of section 124A of the Employment Rights Act 1996, an uplift in the sum of £1,459.00.

2.3. The respondent is ordered to pay fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

2.4. The respondent is ordered to pay compensation to the claimant in the grand total sum of £5,659.00 in addition to fees in the sum of £390.00.

3 Mr B Taylor: Case Number 1302284/2016

3.1. Mr Taylor's complaint of unfair dismissal is withdrawn and stands dismissed.

3.2. The claimant was dismissed by reason of redundancy and is entitled to a statutory redundancy payment in the total sum of £4,824.00.

3.3. The respondents failed to pay the claimant his statutory entitlement to notice or payment in lieu thereof, a statutory entitlement of £1,920.00. The respondent is ordered to pay damages in the sum of £1,920.00.

3.4. The respondents failed to provide to the claimant a section 1 statement of change of terms and conditions of employment. The respondent is ordered to pay to the claimant compensation in the gross sum of £643.20.

3.5. The respondents failed to comply with the ACAS code and I award an uplift of the compensation payments of 25% in accordance to the provisions of section 124A of the Employment Rights Act 1996, an uplift of £1,686.00.

3.6. The respondent is ordered to pay fees incurred by the claimant in the issue of these proceedings £250.00 and an issue fee incurred for the unfair dismissal in the sum of £950.00, a total sum of £1,200.00

3.7. The respondent is ordered to pay compensation to the claimant in the grand total sum of £9,073.20 in addition to fees in the sum of £1,200.00.

4 Miss C Walsh: Case Number 1301759/2016

4.1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment in the sum of £5,467.00.

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

4.2. The respondents made unlawful deductions from the claimant's pay and the respondent is ordered to pay to the claimant the sum of £370.00.

4.3. The respondent failed to comply with the ACAS code and, in accordance with the provisions of section 124A of the Employment Rights Act 1996, I order that the payments to which the claimant is entitled be uplifted by 25% in the sum of £1,459.25.

4.4 The respondent is ordered to pay the fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

4.5 The respondent is ordered to pay compensation to the claimant in the grand total sum of £7,296.00 in addition to fees in the sum of £390.00.

5. Mrs J McKenry: Case Number 1302362/2016

5.1. The claimant is entitled to a statutory redundancy payment of £5,970.00.

5.2. The respondent is ordered to pay to the claimant compensation in lieu of her statutory notice period of 12 weeks' pay at £194.00 net, a total of £2,328.00. The respondent is ordered to pay to the claimant damages in the sum of £2,328.00.

5.3. The respondent made unlawful deductions from the claimant's pay in respect of a week in hand in the sum of £194.00. The respondent is ordered to pay to the claimant the sum of £194.00.

5.4. The respondent failed to pay to the claimant her accrued entitlement to holiday pay in respect of 54 hours in the total sum of £388.00. The respondent is ordered to pay to the claimant the sum of £388.00.

5.5. The respondent failed to observe the ACAS code and in accordance to the provisions of section 124A of the Employment Rights Act 1996, I award an uplift in the compensation award of 25%, the total sum of £2,220.00.

5.6. The respondent is required to pay the claimant's fees in the total sum of £390.00.

5.7 The respondent is ordered to pay compensation to the claimant in the grand total sum of £11,100.0 in addition to fees in the sum of £390.00.

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

REASONS

1. The judgment and the reasons for it were announced at the hearing of this case. The parties have requested that reasons for the Judgment be sent to them. I would apologise to the parties for the delay in forwarding the written Judgment and Reasons for it to them. The promulgation of the judgment was initially delayed by my judicial commitments and subsequently in 2017 by my prolonged absence from the Employment Tribunal because of ill health that prevented the judgment and reasons for it being sent to the parties.

2. By way of background the claimants were employed by a business that traded as Tennants Craft Bakery and they had all been long serving employees of the respondents when their employment came to an end unexpectedly when the business at the locations at which they were employed by the respondents ceased trading. In the circumstance Mrs Edgington's employment was terminated on 25 November 2015 and the remaining claimants' employment was terminated on 16 April 2016. The five cases have been consolidated by the Employment Tribunal as they involve the same employer and sadly the same or very similar circumstances where the employer has simply ceased trading and has terminated the claimants' employment.

3. None of the named respondents or any combination of them have entered a response to the complaints brought against them. I have heard evidence from each claimant, with the exception of Mrs J McKenry and as a result of their uncontested account I have made my findings of fact.

4. Mrs Brazier began employment with the respondents on 21 July 1992 as a bakery cleaner, Miss Walsh began employment on 15 April 2000 and Mrs Edgington as a Shop Manager at the Market Street shop in Hednesford on 22 July 1988, Mr B Taylor began employment as the Driver Assistant Baker working at the Wood Lane bakery on 9 November 1993 and Mrs J McKenry on 17 June 1986. It is starkly disappointing that such long serving employees were subject to the treatment by the respondents that they were. The claimants all worked for a good length of time with the previous owners of the respondent business, Mr Philip Tennant and Mrs Jane Tennant, who had spoken to their employees informing them that they were looking to sell the business in 2014. They had hoped that there would be a completion date on 30 September 2014 to transfer the business to Mr Carl and Mrs Debbie

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

Collins. In the event the claimants were given to understand that Mr and Mrs Collins chose to have the business put into the name of their daughter, Ms Melissa Collins, and the claimant were told that the sale of the business from Mr & Mrs Tennant to Ms Melissa Collins took place on Friday 24 October 2014. Notice confirming the change of the employer was posted for all staff members of Tennants Craft Bakery and was posted on the notice board. The claimant were informed that their employment was transferred to Ms Melissa Collins who continued to trade as Tennants Craft Bakery as identified in the notice (p.51). It would seem that Ms Collins initially managed, as well as owned, the bakery (p.52) writing to Mr Taylor identifying the rota systems. However, it would seem from all of the evidence I have heard from the four witnesses who gave evidence; Mrs Brazier, Mrs Edgington, Mr Taylor and Ms Walsh, that Ms Collins' interest in the bakery waned and her mother, Debbie Collins who worked as the administrator at the Wood Lane site and her father Mr Carl Collins, who increasingly increasingly managed the operation at all of the sites. Indeed Mrs Debbie Collins I am told was the tenant on a lease that was forfeited on non-payment of the rent and Mrs Edgington who was the Store Manager at the Market Street Bakers Shop was informed of that fact by the landlord when the shutters were put up on the closure of that shop on 20 November 2015.

5. One of the many issues I have to decide in this case is who was the employer of each of the claimants. Based upon the best information that has been given to me, although that is limited, it is apparent that Ms Melissa Collins from time to time when funds were low wrote personal cheques to pay salaries for a number of the employees as confirmed by Mrs Brazier's bank statements to that effect. Pay advice slips were issued to employees in the trading name of Tennants Craft Bakery. In the circumstances given Mrs Debbie Collins' management and day-to-day organisation of the business and the involvement in the running of the business by Mr Carl Tennant, it would appear that Tennants Craft Bakery was a family run business that had been put into the name of Melissa Collins and the owners of the business would appear in those circumstances to be jointly Melissa Collins, Debbie Collins and Carl Collins who I find to be jointly and severally liable as employers of each of the five claimants in this case.

6. Mrs McKenry has not attended the tribunal hearing to give evidence today. She relies upon the written documentation that she has submitted. At first glance Mrs McKenry's application to the tribunal would appear not to have been presented in time. Her employment terminated on 16 April 2016. She referred the case for early conciliation to ACAS on 17 June. A certificate was issued on 12 July and her claim was validly presented to the Employment Tribunal on 16 September. Further enquiries identified that the claim was

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

originally presented on 12 August 2016 but was not accompanied by the fee that was then due. It is clear however that Mrs McKenry's husband was at that time in hospital and the claimant did not have access to the internet but when she did she resubmitted her complaint which was presented on 16 September 2016. In light of the written representations that I have received I find in the circumstances it was not reasonably practicable for her to have presented a complaint within 3 months of the termination of her employment allowing for the adjusted dates with early conciliation. However, it was presented within such time as I consider reasonable and I find the tribunal has jurisdiction to entertain her complaint. I have considered the law in relation to presentation of complaints to an Employment Tribunal consistent with the provisions of s111(2) of the Employment Rights Act 1996.

7. Section 111(2) Employment Rights Act 1996 provides that a tribunal shall not consider a complaint that an employee was unfairly dismissed unless it is presented to the tribunal

(a) before the end of the period of three months beginning with the effective date of termination or

(b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for a complaint to be presented before the end of that period of three months.

The expression "not reasonably practicable" has been the subject of considerable judicial interpretation. I have considered the following authorities:-

Dedman -v- British Building and Engineering Applicances Ltd [1973]
IRLR 379 CA

Walls Meat Co Ltdv Khan [1979] ICR 52,CA

Marks & Spencer Plc -v- Williams-Ryan [2005] IRLR 563 CA

Consignia Plc -v- Sealy [2002]IRLR 624 (CA)

Initial Electronic Security Systems Ltd -v- Miss A Avdic UK EAT – 0281-05

Camden & Islington Community Services NHS Trust -v- Kennedy [1996] IRLR 381

Capital Foods Retail Ltd -v- Corrigan [1993] IRLR 430

Chohan -v Derby Law Centre [2004] IRLR 685

Having regard to the relevant authorities I consider that the complaint was not presented in time, it was not reasonably practicable for her to have done so. I find however it was presented within such further period as I consider to have been reasonable in the facts of the case.

8. Mrs Edgington's case is slightly different to that of the remaining four claimants. She was employed as a Shop Manager working at the Market

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

Street Bakery. She attended for work as she would have normally on 25 November 2015 to find that the premises was closed and that a notice had been placed on the door by the landlord as it had been seized by the landlord as a result of non-payment of rent by Debbie Collins who was the tenant. Mrs Edgington sought to pursue the respondents for her redundancy payment which was not forthcoming from them and following advice from ACAS she made a request that the Redundancy Payments Office through the Secretary of State should pay her redundancy entitlement. Sadly because Ms Melissa Collins trading as Tennants Craft Bakery was not bankrupt and the business was not insolvent payment was not made. Mrs Edgington latterly received confirmation from that service on 2 June 2016 that she would have to pursue her employer for the redundancy payment through the Employment Tribunal to get a judgment to the effect that her redundancy payment was rightly hers. A complaint was presented to the tribunal on 15 August 2016 within the extended time period of an additional 3 months from the time of the Secretary of State's decision. In the circumstances I find that the tribunal has jurisdiction to entertain the complaint.

9. Turning to the events that affected the remaining four claimants, the employees who worked at the bakery based at Wood Lane, Hednesford. The employees had been told that the Collins family were looking to relocate to more suitable premises and indeed the claimants have been led to believe that those premises would be to a location within Cannock in a place called Four Ashes. Mr Taylor understood that it might have been on an industrial estate but although he thought it was somewhat out of the way, he and indeed I have no doubt the other employees would have relocated to work at such a location. In the event on Saturday 16 April 2016 a number of articulated lorries attended at the Bakery, which baked bread as well as sold it at a small retail unit that in latter months had been closed. Towards the end of the morning, at around about 9.00am, the bakery, having opened much earlier to bake the bread, the ovens were taken away. Mr Taylor says that the transport lorries set off in the northerly direction and in fact the respondent business did not relocate to Four Ashes or anywhere locally.

10. The claimants were led to believe that the Collins family had relocated to an operation in Macclesfield. The claimants understood that the business had been sold to Basingtons Bakery Ltd, however, that party was sent correspondence from the tribunal and their response was that none of the employees were employed by that business nor had they any knowledge of the Tennants Craft Bakery. In the circumstances it is evident that the operation of a bakery at Wood Lane, Hednesford by Tennants Craft Bakery ceased with immediate effect on 16 April 2016. Sadly the respondents whether Melissa or Debbie Collins or indeed anyone within the family who

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

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(4) 1301759/2016

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worked in the business deliberately appears to have misled the claimants as to their future employment. On 16 April 2016 the Collins family members had indicated that they would be in touch by text telling the claimants who had remained in their employment, where to go to work the following week. However no such text was received by any of the employees nor did any of the Collins family communicate with the claimants. The respondent behaved in much the way as they had ceased to communicate with Ms Edgington when her employment was summarily terminated in November 2015.

11. I find that the respondents have abjectly failed to comply with any of the standards of good industrial practice as commended by ACAS and although the employment was terminated by reason of redundancy on closure of the business that the Collins family operated and traded as Tennants Craft Bakery it was without doubt an unfair dismissal.

12. Mr Taylor is the only claimant who has claimed within time that he has been unfairly dismissed by the respondents. Mr Blitz acting on behalf of Mr Taylor, the only represented claimant, has indicated that in light of all the circumstances and in light of the redundancy situation on the closure of the business that was operated at Wood Lane it was not intended to pursue an unfair dismissal complaint at this hearing although the claim had originally been brought as such. The claim of unfair dismissal is dismissed on the withdrawal.

13. Having heard the evidence and in light of all of my findings I find that the employees were employed by Tennants Craft Bakery, a business trading under that name that was owned by the Collins family. The claimants were variously told that Melissa Collins was the owner and that Debbie Collins was a Manager having an interest in the business and Carl Collins assisted in the day to day running of the business. Absent any contractual documentation that was provided to the claimants by their employer I find those three individuals as family members of the Collins family who from time to time engaged in the management of the business were de facto jointly and severally liable as owners of the business at the relevant time.

14. Turning to the individual complaints I make the following findings of fact and in conclusion reach the judgments and award compensation as set out below.

Mrs Brazier

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. With regard to Mrs Brazier, I find that she was dismissed by reason of redundancy on 16 April 2016 and she is entitled to a statutory redundancy payment in the sum of £3,886.00.

2. I find that the respondents made an unlawful deduction from her wages in the sum of £144.00.

3. The respondents failed to pay the claimant her statutory notice period or payment in lieu thereof. Her net pay was £144.00 per week and her entitlement over a 12 week statutory notice period is £1,728.00.

4. The respondents failed to pay to the claimant her accrued and untaken holiday entitlement in the sum of 33 hours accruing at the national minimum wage of £7.20 from 5 April in the sum of £237.60.

5. I find the respondents abjectly failed to comply with the ACAS Code of Practice and the awards that I have made to the claimant are uplifted by 25% in accordance with the provisions of section 124A of the Employment Rights Act by the sum of £1,498.90.

6. In the circumstances I award payment of both the issue and the Hearing fee to the claimant to be paid by the respondents in the sum of £390.00.

Mrs Walsh

1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment having regard to her age of 62, 16 years service and a gross week's pay of £227.80 in the sum of £5,467.00.

2. The respondents made unlawful deductions from the claimant's pay and the respondent is ordered to pay to the claimant the sum of £370.00.

3. The respondent failed to comply with the ACAS code and in accordance with the provisions of section 124A of the Employment Rights Act 1996, I order that the payments to which the claimant is entitled be uplifted by 25% in the sum of £1,459.25. The respondent is ordered to pay the fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

Mrs Edgington

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. The claimant was dismissed by the respondents by reason of redundancy and having regard to her age of 42 having more than 20 years service her statutory redundancy entitlement is £271.00 by 15.5, a total redundancy payment of £4,200.00.

2. The respondents failed to observe the ACAS code and I award a 25% uplift of the sums to which the claimant is entitled in accordance with the provisions of section 124A of the Employment Rights Act 1996, an uplift in the sum of £1,459.00.

3. The respondent is ordered to pay fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

Mr Taylor

1. Mr Taylor originally pursued a complaint that he was unfairly dismissed by the respondents as well as a number of other complaints. Mr Blitz on behalf of the claimant has confirmed today that the claimant does not wish to pursue an unfair dismissal complaint acknowledging that the reason for termination of his employment was redundancy, a potentially fair reason for dismissal. In the circumstances the claim for unfair dismissal is dismissed.

2. The claimant is entitled to a statutory redundancy payment based upon the claimant's age and more than 20 years of service and a gross weekly pay of £160.80 in the total sum of £4,824.00.

3. The respondents failed to pay the claimant his statutory entitlement to notice or payment in lieu thereof, a statutory entitlement of £1,920.00.

4. The respondents failed to provide to the claimant a section 1 statement of change of terms and conditions of employment and I award 4 weeks' pay in the gross sum of £160.80, a total of £443.20.

5. The respondents failed abjectly to comply with the ACAS code and I award an uplift of the compensation payments of 25% in accordance to the provisions of section 124A of the Employment Rights Act 1996, an uplift of £1,686.00.

6. The respondent is ordered to pay fees incurred by the claimant in the issue of these proceedings £250.00 and an issue fee incurred for the unfair dismissal in the sum of £950.00, a total sum of £1,200.00

Mrs J McKenry

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. The claimant is entitled to a statutory redundancy pay based upon her age of 62 years, 20 years continuous employment and a gross weekly wage of £199.00, a redundancy payment of £5,970.00.

2. The respondent is ordered to pay to the claimant compensation in lieu of her statutory notice period of 12 weeks' pay at £194.00 net, a total of £2,328.00.

3. The respondents made unlawful deductions from the claimant's pay in respect of a week in hand in the sum of £194.00.

4. The respondent failed to pay to the claimant her accrued entitlement to holiday pay in respect of 54 hours in the total sum of £388.00.

5. The respondents failed to observe the ACAS code and in accordance to the provisions of section 124A of the Employment Rights Act 1996, I award an uplift in the compensation award of 25%, the total sum of £2,220.00.

6. The respondent is required to pay the claimant's fees in the total sum of £390.00

Employment Judge Dean
22 May 2017

Judgment sent to Parties on
23 May 2017

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016



VCD

EMPLOYMENT TRIBUNALS

Claimant

Respondent

(1) Mrs J Brazier

(2) Mrs M Edgington

(3) Mr B Taylor

(4) Miss C Walsh

(5) Mrs J McKenry

v R1) Tennants Craft Bakery

**(R2) Mrs Debbie Collins t/a Tennants
Craft Bakery**

**(R3) Mr Carl Collins t/a Tennants Craft
Bakery**

**(R4) Miss Melissa Collins t/a Tennants
Craft Bakery**

(R5) Tennants Craft Bakery Limited

Heard at: Birmingham

On: 28 November 2016

Before: Employment Judge Dean

Appearances:

For Claimants

(1) Mrs J Brazier: in person

(2) Mrs M Edgington: in person

(3) Mr B Taylor : Mr Blitz (acting on behalf for Mr Taylor)

(4) Miss C Walsh: in person

(5) Mrs J McKenry: no attendance, written submissions

For Respondents: No appearance

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

JUDGMENT

The judgment of the Tribunal is that the claimants and each of them were employed by the First, Second and Third Respondents jointly and severally trading as Tenants Craft Bakery.

1 Mrs J Brazier: Case Number 1301817/2016

1.1. Mrs Brazier was dismissed by reason of redundancy on 16 April 2016 and she is entitled to a statutory redundancy payment in the sum of £3,886.00.

1.2. The respondents made an unlawful deduction from the claimant's wages in the sum of £144.00. The respondent is ordered to pay the claimant the sum of £144.00.

1.3. The respondents failed to pay the claimant her statutory notice period or payment in lieu thereof. Her net pay was £144.00 per week and her entitlement over a 12 week statutory notice period is £1,728.00. The respondent is ordered to pay the claimant damages in the sum of £1,728.00.

1.4. The respondents failed to pay to the claimant her accrued and untaken holiday entitlement in the sum of 33 hours accruing at the national minimum wage of £7.20 from 5 April in the sum of £237.60. The respondent is ordered to pay to the claimant the sum of £237.60.

1.5. The respondent having failed to comply with the ACAS Code of Practice the awards at paragraphs 1.1 - 1.4 that I have made to the claimant are uplifted by 25% in accordance with the provisions of section 124A of the Employment Rights Act in the sum of £1,498.90. The respondent is ordered to pay to the claimant the further sum of £1498.90.

1.6. In the circumstances I award payment of both the issue and the Hearing fee to the claimant to be paid by the respondents in the sum of £390.00.

1.7 The respondent is ordered to pay compensation to the claimant in the grand total sum of £7494.50 in addition to fees in the sum of £390.00.

2 Mrs Edgington: Case Number 1302284/2016

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

2.1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment of £4,200.00.

2.2. The respondents failed to observe the ACAS code and I award a 25% uplift of the sums to which the claimant is entitled in accordance with the provisions of section 124A of the Employment Rights Act 1996, an uplift in the sum of £1,459.00.

2.3. The respondent is ordered to pay fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

2.4. The respondent is ordered to pay compensation to the claimant in the grand total sum of £5,659.00 in addition to fees in the sum of £390.00.

3 Mr B Taylor: Case Number 1302284/2016

3.1. Mr Taylor's complaint of unfair dismissal is withdrawn and stands dismissed.

3.2. The claimant was dismissed by reason of redundancy and is entitled to a statutory redundancy payment in the total sum of £4,824.00.

3.3. The respondents failed to pay the claimant his statutory entitlement to notice or payment in lieu thereof, a statutory entitlement of £1,920.00. The respondent is ordered to pay damages in the sum of £1,920.00.

3.4. The respondents failed to provide to the claimant a section 1 statement of change of terms and conditions of employment. The respondent is ordered to pay to the claimant compensation in the gross sum of £643.20.

3.5. The respondents failed to comply with the ACAS code and I award an uplift of the compensation payments of 25% in accordance to the provisions of section 124A of the Employment Rights Act 1996, an uplift of £1,686.00.

3.6. The respondent is ordered to pay fees incurred by the claimant in the issue of these proceedings £250.00 and an issue fee incurred for the unfair dismissal in the sum of £950.00, a total sum of £1,200.00

3.7. The respondent is ordered to pay compensation to the claimant in the grand total sum of £9,073.20 in addition to fees in the sum of £1,200.00.

4 Miss C Walsh: Case Number 1301759/2016

4.1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment in the sum of £5,467.00.

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

4.2. The respondents made unlawful deductions from the claimant's pay and the respondent is ordered to pay to the claimant the sum of £370.00.

4.3. The respondent failed to comply with the ACAS code and, in accordance with the provisions of section 124A of the Employment Rights Act 1996, I order that the payments to which the claimant is entitled be uplifted by 25% in the sum of £1,459.25.

4.4 The respondent is ordered to pay the fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

4.5 The respondent is ordered to pay compensation to the claimant in the grand total sum of £7,296.00 in addition to fees in the sum of £390.00.

5. Mrs J McKenry: Case Number 1302362/2016

5.1. The claimant is entitled to a statutory redundancy payment of £5,970.00.

5.2. The respondent is ordered to pay to the claimant compensation in lieu of her statutory notice period of 12 weeks' pay at £194.00 net, a total of £2,328.00. The respondent is ordered to pay to the claimant damages in the sum of £2,328.00.

5.3. The respondent made unlawful deductions from the claimant's pay in respect of a week in hand in the sum of £194.00. The respondent is ordered to pay to the claimant the sum of £194.00.

5.4. The respondent failed to pay to the claimant her accrued entitlement to holiday pay in respect of 54 hours in the total sum of £388.00. The respondent is ordered to pay to the claimant the sum of £388.00.

5.5. The respondent failed to observe the ACAS code and in accordance to the provisions of section 124A of the Employment Rights Act 1996, I award an uplift in the compensation award of 25%, the total sum of £2,220.00.

5.6. The respondent is required to pay the claimant's fees in the total sum of £390.00.

5.7 The respondent is ordered to pay compensation to the claimant in the grand total sum of £11,100.0 in addition to fees in the sum of £390.00.

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

REASONS

1. The judgment and the reasons for it were announced at the hearing of this case. The parties have requested that reasons for the Judgment be sent to them. I would apologise to the parties for the delay in forwarding the written Judgment and Reasons for it to them. The promulgation of the judgment was initially delayed by my judicial commitments and subsequently in 2017 by my prolonged absence from the Employment Tribunal because of ill health that prevented the judgment and reasons for it being sent to the parties.

2. By way of background the claimants were employed by a business that traded as Tennants Craft Bakery and they had all been long serving employees of the respondents when their employment came to an end unexpectedly when the business at the locations at which they were employed by the respondents ceased trading. In the circumstance Mrs Edgington's employment was terminated on 25 November 2015 and the remaining claimants' employment was terminated on 16 April 2016. The five cases have been consolidated by the Employment Tribunal as they involve the same employer and sadly the same or very similar circumstances where the employer has simply ceased trading and has terminated the claimants' employment.

3. None of the named respondents or any combination of them have entered a response to the complaints brought against them. I have heard evidence from each claimant, with the exception of Mrs J McKenry and as a result of their uncontested account I have made my findings of fact.

4. Mrs Brazier began employment with the respondents on 21 July 1992 as a bakery cleaner, Miss Walsh began employment on 15 April 2000 and Mrs Edgington as a Shop Manager at the Market Street shop in Hednesford on 22 July 1988, Mr B Taylor began employment as the Driver Assistant Baker working at the Wood Lane bakery on 9 November 1993 and Mrs J McKenry on 17 June 1986. It is starkly disappointing that such long serving employees were subject to the treatment by the respondents that they were. The claimants all worked for a good length of time with the previous owners of the respondent business, Mr Philip Tennant and Mrs Jane Tennant, who had spoken to their employees informing them that they were looking to sell the business in 2014. They had hoped that there would be a completion date on 30 September 2014 to transfer the business to Mr Carl and Mrs Debbie

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

Collins. In the event the claimants were given to understand that Mr and Mrs Collins chose to have the business put into the name of their daughter, Ms Melissa Collins, and the claimant were told that the sale of the business from Mr & Mrs Tennant to Ms Melissa Collins took place on Friday 24 October 2014. Notice confirming the change of the employer was posted for all staff members of Tennants Craft Bakery and was posted on the notice board. The claimant were informed that their employment was transferred to Ms Melissa Collins who continued to trade as Tennants Craft Bakery as identified in the notice (p.51). It would seem that Ms Collins initially managed, as well as owned, the bakery (p.52) writing to Mr Taylor identifying the rota systems. However, it would seem from all of the evidence I have heard from the four witnesses who gave evidence; Mrs Brazier, Mrs Edgington, Mr Taylor and Ms Walsh, that Ms Collins' interest in the bakery waned and her mother, Debbie Collins who worked as the administrator at the Wood Lane site and her father Mr Carl Collins, who increasingly increasingly managed the operation at all of the sites. Indeed Mrs Debbie Collins I am told was the tenant on a lease that was forfeited on non-payment of the rent and Mrs Edgington who was the Store Manager at the Market Street Bakers Shop was informed of that fact by the landlord when the shutters were put up on the closure of that shop on 20 November 2015.

5. One of the many issues I have to decide in this case is who was the employer of each of the claimants. Based upon the best information that has been given to me, although that is limited, it is apparent that Ms Melissa Collins from time to time when funds were low wrote personal cheques to pay salaries for a number of the employees as confirmed by Mrs Brazier's bank statements to that effect. Pay advice slips were issued to employees in the trading name of Tennants Craft Bakery. In the circumstances given Mrs Debbie Collins' management and day-to-day organisation of the business and the involvement in the running of the business by Mr Carl Tennant, it would appear that Tennants Craft Bakery was a family run business that had been put into the name of Melissa Collins and the owners of the business would appear in those circumstances to be jointly Melissa Collins, Debbie Collins and Carl Collins who I find to be jointly and severally liable as employers of each of the five claimants in this case.

6. Mrs McKenry has not attended the tribunal hearing to give evidence today. She relies upon the written documentation that she has submitted. At first glance Mrs McKenry's application to the tribunal would appear not to have been presented in time. Her employment terminated on 16 April 2016. She referred the case for early conciliation to ACAS on 17 June. A certificate was issued on 12 July and her claim was validly presented to the Employment Tribunal on 16 September. Further enquiries identified that the claim was

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

originally presented on 12 August 2016 but was not accompanied by the fee that was then due. It is clear however that Mrs McKenry's husband was at that time in hospital and the claimant did not have access to the internet but when she did she resubmitted her complaint which was presented on 16 September 2016. In light of the written representations that I have received I find in the circumstances it was not reasonably practicable for her to have presented a complaint within 3 months of the termination of her employment allowing for the adjusted dates with early conciliation. However, it was presented within such time as I consider reasonable and I find the tribunal has jurisdiction to entertain her complaint. I have considered the law in relation to presentation of complaints to an Employment Tribunal consistent with the provisions of s111(2) of the Employment Rights Act 1996.

7. Section 111(2) Employment Rights Act 1996 provides that a tribunal shall not consider a complaint that an employee was unfairly dismissed unless it is presented to the tribunal

(a) before the end of the period of three months beginning with the effective date of termination or

(b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for a complaint to be presented before the end of that period of three months.

The expression "not reasonably practicable" has been the subject of considerable judicial interpretation. I have considered the following authorities:-

Dedman -v- British Building and Engineering Applicances Ltd [1973]
IRLR 379 CA

Walls Meat Co Ltdv Khan [1979] ICR 52,CA

Marks & Spencer Plc -v- Williams-Ryan [2005] IRLR 563 CA

Consignia Plc -v- Sealy [2002]IRLR 624 (CA)

Initial Electronic Security Systems Ltd -v- Miss A Avdic UK EAT – 0281-05

Camden & Islington Community Services NHS Trust -v- Kennedy [1996] IRLR 381

Capital Foods Retail Ltd -v- Corrigan [1993] IRLR 430

Chohan -v Derby Law Centre [2004] IRLR 685

Having regard to the relevant authorities I consider that the complaint was not presented in time, it was not reasonably practicable for her to have done so. I find however it was presented within such further period as I consider to have been reasonable in the facts of the case.

8. Mrs Edgington's case is slightly different to that of the remaining four claimants. She was employed as a Shop Manager working at the Market

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

Street Bakery. She attended for work as she would have normally on 25 November 2015 to find that the premises was closed and that a notice had been placed on the door by the landlord as it had been seized by the landlord as a result of non-payment of rent by Debbie Collins who was the tenant. Mrs Edgington sought to pursue the respondents for her redundancy payment which was not forthcoming from them and following advice from ACAS she made a request that the Redundancy Payments Office through the Secretary of State should pay her redundancy entitlement. Sadly because Ms Melissa Collins trading as Tennants Craft Bakery was not bankrupt and the business was not insolvent payment was not made. Mrs Edgington latterly received confirmation from that service on 2 June 2016 that she would have to pursue her employer for the redundancy payment through the Employment Tribunal to get a judgment to the effect that her redundancy payment was rightly hers. A complaint was presented to the tribunal on 15 August 2016 within the extended time period of an additional 3 months from the time of the Secretary of State's decision. In the circumstances I find that the tribunal has jurisdiction to entertain the complaint.

9. Turning to the events that affected the remaining four claimants, the employees who worked at the bakery based at Wood Lane, Hednesford. The employees had been told that the Collins family were looking to relocate to more suitable premises and indeed the claimants have been led to believe that those premises would be to a location within Cannock in a place called Four Ashes. Mr Taylor understood that it might have been on an industrial estate but although he thought it was somewhat out of the way, he and indeed I have no doubt the other employees would have relocated to work at such a location. In the event on Saturday 16 April 2016 a number of articulated lorries attended at the Bakery, which baked bread as well as sold it at a small retail unit that in latter months had been closed. Towards the end of the morning, at around about 9.00am, the bakery, having opened much earlier to bake the bread, the ovens were taken away. Mr Taylor says that the transport lorries set off in the northerly direction and in fact the respondent business did not relocate to Four Ashes or anywhere locally.

10. The claimants were led to believe that the Collins family had relocated to an operation in Macclesfield. The claimants understood that the business had been sold to Basingtons Bakery Ltd, however, that party was sent correspondence from the tribunal and their response was that none of the employees were employed by that business nor had they any knowledge of the Tennants Craft Bakery. In the circumstances it is evident that the operation of a bakery at Wood Lane, Hednesford by Tennants Craft Bakery ceased with immediate effect on 16 April 2016. Sadly the respondents whether Melissa or Debbie Collins or indeed anyone within the family who

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

worked in the business deliberately appears to have misled the claimants as to their future employment. On 16 April 2016 the Collins family members had indicated that they would be in touch by text telling the claimants who had remained in their employment, where to go to work the following week. However no such text was received by any of the employees nor did any of the Collins family communicate with the claimants. The respondent behaved in much the way as they had ceased to communicate with Ms Edgington when her employment was summarily terminated in November 2015.

11. I find that the respondents have abjectly failed to comply with any of the standards of good industrial practice as commended by ACAS and although the employment was terminated by reason of redundancy on closure of the business that the Collins family operated and traded as Tennants Craft Bakery it was without doubt an unfair dismissal.

12. Mr Taylor is the only claimant who has claimed within time that he has been unfairly dismissed by the respondents. Mr Blitz acting on behalf of Mr Taylor, the only represented claimant, has indicated that in light of all the circumstances and in light of the redundancy situation on the closure of the business that was operated at Wood Lane it was not intended to pursue an unfair dismissal complaint at this hearing although the claim had originally been brought as such. The claim of unfair dismissal is dismissed on the withdrawal.

13. Having heard the evidence and in light of all of my findings I find that the employees were employed by Tennants Craft Bakery, a business trading under that name that was owned by the Collins family. The claimants were variously told that Melissa Collins was the owner and that Debbie Collins was a Manager having an interest in the business and Carl Collins assisted in the day to day running of the business. Absent any contractual documentation that was provided to the claimants by their employer I find those three individuals as family members of the Collins family who from time to time engaged in the management of the business were de facto jointly and severally liable as owners of the business at the relevant time.

14. Turning to the individual complaints I make the following findings of fact and in conclusion reach the judgments and award compensation as set out below.

Mrs Brazier

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. With regard to Mrs Brazier, I find that she was dismissed by reason of redundancy on 16 April 2016 and she is entitled to a statutory redundancy payment in the sum of £3,886.00.

2. I find that the respondents made an unlawful deduction from her wages in the sum of £144.00.

3. The respondents failed to pay the claimant her statutory notice period or payment in lieu thereof. Her net pay was £144.00 per week and her entitlement over a 12 week statutory notice period is £1,728.00.

4. The respondents failed to pay to the claimant her accrued and untaken holiday entitlement in the sum of 33 hours accruing at the national minimum wage of £7.20 from 5 April in the sum of £237.60.

5. I find the respondents abjectly failed to comply with the ACAS Code of Practice and the awards that I have made to the claimant are uplifted by 25% in accordance with the provisions of section 124A of the Employment Rights Act by the sum of £1,498.90.

6. In the circumstances I award payment of both the issue and the Hearing fee to the claimant to be paid by the respondents in the sum of £390.00.

Mrs Walsh

1. The claimant was dismissed by the respondents by reason of redundancy and she is entitled to a statutory redundancy payment having regard to her age of 62, 16 years service and a gross week's pay of £227.80 in the sum of £5,467.00.

2. The respondents made unlawful deductions from the claimant's pay and the respondent is ordered to pay to the claimant the sum of £370.00.

3. The respondent failed to comply with the ACAS code and in accordance with the provisions of section 124A of the Employment Rights Act 1996, I order that the payments to which the claimant is entitled be uplifted by 25% in the sum of £1,459.25. The respondent is ordered to pay the fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

Mrs Edgington

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. The claimant was dismissed by the respondents by reason of redundancy and having regard to her age of 42 having more than 20 years service her statutory redundancy entitlement is £271.00 by 15.5, a total redundancy payment of £4,200.00.

2. The respondents failed to observe the ACAS code and I award a 25% uplift of the sums to which the claimant is entitled in accordance with the provisions of section 124A of the Employment Rights Act 1996, an uplift in the sum of £1,459.00.

3. The respondent is ordered to pay fees incurred by the claimant in the issue and the hearing fee in the total sum of £390.00.

Mr Taylor

1. Mr Taylor originally pursued a complaint that he was unfairly dismissed by the respondents as well as a number of other complaints. Mr Blitz on behalf of the claimant has confirmed today that the claimant does not wish to pursue an unfair dismissal complaint acknowledging that the reason for termination of his employment was redundancy, a potentially fair reason for dismissal. In the circumstances the claim for unfair dismissal is dismissed.

2. The claimant is entitled to a statutory redundancy payment based upon the claimant's age and more than 20 years of service and a gross weekly pay of £160.80 in the total sum of £4,824.00.

3. The respondents failed to pay the claimant his statutory entitlement to notice or payment in lieu thereof, a statutory entitlement of £1,920.00.

4. The respondents failed to provide to the claimant a section 1 statement of change of terms and conditions of employment and I award 4 weeks' pay in the gross sum of £160.80, a total of £443.20.

5. The respondents failed abjectly to comply with the ACAS code and I award an uplift of the compensation payments of 25% in accordance to the provisions of section 124A of the Employment Rights Act 1996, an uplift of £1,686.00.

6. The respondent is ordered to pay fees incurred by the claimant in the issue of these proceedings £250.00 and an issue fee incurred for the unfair dismissal in the sum of £950.00, a total sum of £1,200.00

Mrs J McKenry

Case Numbers: (1) 1301817/2016

(2) 1302132/2016

(3) 1302284/2016

(4) 1301759/2016

(5) 1302362/2016

1. The claimant is entitled to a statutory redundancy pay based upon her age of 62 years, 20 years continuous employment and a gross weekly wage of £199.00, a redundancy payment of £5,970.00.

2. The respondent is ordered to pay to the claimant compensation in lieu of her statutory notice period of 12 weeks' pay at £194.00 net, a total of £2,328.00.

3. The respondents made unlawful deductions from the claimant's pay in respect of a week in hand in the sum of £194.00.

4. The respondent failed to pay to the claimant her accrued entitlement to holiday pay in respect of 54 hours in the total sum of £388.00.

5. The respondents failed to observe the ACAS code and in accordance to the provisions of section 124A of the Employment Rights Act 1996, I award an uplift in the compensation award of 25%, the total sum of £2,220.00.

6. The respondent is required to pay the claimant's fees in the total sum of £390.00

Employment Judge Dean
22 May 2017

Judgment sent to Parties on
23 May 2017