



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs Jill Harrison

**Respondents:** Cognito Software Limited

## FINAL HEARING

**Heard at:** Birmingham

**On:** 16 to 19 October 2017

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

### Appearances

For the claimant: Mr J Neville, counsel

For the respondents: Mr J Meichen, counsel

## JUDGMENT

1. The respondent made unauthorised deductions from the claimant's wages in relation to the period from 1 February to 17 March 2017 inclusive.
2. The unauthorised deductions from the claimant's wages referred to in paragraph 1 above included non-payment of sick-pay in relation to two days in March 2017.
3. The claimant was unfairly and wrongfully dismissed.
4. Assuming the remedy for unfair dismissal is compensation only:
  - 4.1 had the claimant not been constructively with effect on 17 March 2017, she would in all probability have been dismissed by the respondent for misconduct within six weeks of that date; and the maximum amount of any compensatory award is a sum equivalent to six weeks' net pay, in accordance with Polkey v AE Dayton Services Ltd [1987] UKHL 8, paragraph 54 of the decision of the Employment Appeal Tribunal in Software 2000 Ltd v Andrews [2007] ICR 825, W Devis & Sons Ltd v Atkins [1977] 3 All ER 40 & Crédit Agricole Corporate and Investment Bank v Wardle [2011] IRLR 604;
  - 4.2 it would be just and equitable to reduce the amount of the claimant's basic award by 50 percent because of blameworthy and/or culpable conduct, pursuant to section 122(2) of the Employment Rights Act 1996 ("ERA");
  - 4.3 the claimant did not cause or contribute to her dismissal, by blameworthy and/or culpable actions or otherwise, and no further reduction to any compensatory award is appropriate, pursuant to ERA section 123(6).



5. The above judgment was made and took effect on 19 October 2017. Reasons were reserved and will be provided in writing in due course without the parties needing to ask for them.
6. The parties having, in light of paragraphs 1 to 4 above (and without prejudice to any appeal or application for reconsideration relating to those paragraphs), agreed remedy, by consent, the respondent must pay the claimant a total sum of **£9,662.14** in compensation and damages, made up as follows:
  - 6.1 £361.94 in relation to unauthorised deductions from wages;
  - 6.2 damages for wrongful dismissal of £3,082.20;
  - 6.3 an unfair dismissal basic award of £4,326.90 (£8,653.80 less 50%);
  - 6.4 an unfair dismissal compensatory award of £1,891.10
7. **CASE MANAGEMENT ORDER:** by consent, there being an issue as to whether an award should be made under section 38 of the Employment Act 2002 and if so how much should be awarded, and it being impracticable for the parties to make meaningful submissions on that issue without knowing the reasons for paragraphs 1 to 4 above, the parties must **within 14 days of the sending out of the written reasons** provide to the tribunal and to each other any submissions they rely on in relation to that issue in writing, following which the Employment Judge will decide that issue on the papers without holding a further hearing.

Signed by Employment Judge Camp on 19 October 2017

Sent To The Parties On 2 November 2017