



EMPLOYMENT TRIBUNALS

Claimant: Ms S Atchison

Respondent: JDM Farnborough Limited

Heard at: London South

On: 2 November 2017 (at Ashford) & 29 November 2017 at Croydon

Before: Employment Judge John Crosfill

Representation

Claimant: In Person

Respondent: Elizabeth Howard, the Compliance Manager

JUDGMENT

1. The Claimant's claim of unfair dismissal brought under Part X of the Employment Rights Act 1996 is well founded.
 - 1.1. Pursuant to Section 118(1)(a) of the Employment Rights Act 1996 the Respondent is ordered to pay the Claimant a basic award of £2,874.00. That sum is calculated in accordance with the schedule below.
 - 1.2. Pursuant to Section 118(1)(b) of the Employment Rights Act 1996 the Claimant is awarded a compensatory award of £10,406.87. That sum is calculated in accordance with the schedule below. The Respondent shall pay that sum in accordance with the recoupment regulations.
2. The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 apply to the award.
 - 2.1. the total monetary award in respect of the claim for unfair dismissal is £13280.87
 - 2.2. the amount of the prescribed element is £7630.82
 - 2.3. the dates of the period to which the prescribed element is attributable are 2 May 2017 to 29 November 2017.

2.4. the amount, if any, by which the monetary award exceeds the prescribed element is £5650.05

3. The Claimant's claim for breach of contract (Notice pay) brought under the Employment Tribunal (Extension of Jurisdiction) Order 1994 succeeds.

3.1. The Respondent is ordered to pay the Claimant the sum of £2025.12. The calculation of the said sum is set out in the schedule below.

Employment Judge John Crosfill

Date 20 December 2017

Note

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

Schedule

Basic Award

Gross weekly wage in excess of Statutory cap of £479 in place on 4 April 2017 (the date of dismissal)

4 years of continuous service with the Respondent. The Claimant was over the age of 41 for the entire period.

Basic award = $4 \times 1.5 \times £479 =$ **£2,834.00**

Compensatory Award

The award is calculated in accordance with the findings of the Tribunal that:

- (1) there was a 50% possibility that the Claimant's employment would have terminated fairly at the same time that she was dismissed; and
- (2) that the Claimant would secure employment at the same rate of pay as she earned with the Respondent by 10 weeks after the date of the Tribunal hearing.

The Claimant's net pay was agreed as being £506.28 per week = £72.33 per day

The Tribunal awarded the sum of £489 in respect of the loss of statutory rights.

By reason of the success of the claim of wrongful dismissal the Claimant has suffered no loss during her 4-week notice period which ended on 2 May 2017.

- (1) Loss to the date of the hearing 2 May 2017 to 29 November 2017 a period of 211 days. $211 \times £72.33 =$ **£15,261.63**
- (2) Loss to 7 February 2018 (10 weeks from hearing) = $70 \times £72.33 =$ **£5,063.10**
- (3) **Total un-adjusted compensatory award** = $£489 + £15,261.63 + £5,063.10 =$ **£20813.73**
- (4) Reduction by 50% = $20813.73/2 =$ total Compensatory Award of **£10,406.87**

For the purposes of the recoupment regulations the prescribed element (i.e. the sum awarded in respect of lost wages in the period between the end of the notice period and the tribunal hearing) is $£15,261.63 \times 50\% =$ £7630.82

Total monetary award for unfair dismissal = Basic + Compensatory award = £13280.87

Wrongful dismissal

The Claimant was entitled to 4 weeks notice.

The loss is calculated on the basis of net pay of £506.28

4 x £506.28 = **£2025.12**