

RM



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs AB Syed  
**Respondent:** Vijesh Saujani and Jay Hussain  
trading as SJ Law  
**Heard at:** East London Hearing Centre  
**On:** 8 January 2018  
**Before:** Employment Judge Foxwell

## Representation

**Claimant:** Miss J Ricci (Solicitor)  
**Respondent:** Mr J Trussel (Counsel)

# JUDGMENT

1. The Respondent's application for a postponement of this hearing is dismissed.
2. The Respondent shall pay to the Claimant a basic award for unfair dismissal of £978 and a compensatory award of £3,402.
3. The Respondent has made an unauthorised deduction from the Claimant's wages and is ordered to pay the Claimant the gross sum of £6,574.
4. No award is made in the claim for unpaid holiday pay.
5. The Respondent is ordered to pay the Claimant the further sum of £1,104 pursuant to section 207A of the Trade Union and Labour Relations (Consolidation) Act 1992.
6. The grand total of the above awards is **£11,952**.
7. The Recoupment provisions do not apply.

## REASONS

### **The Respondents' application to postpone**

1. This matter is before me today to assess remedy following the entering of a Rule 21 Judgment in the Claimant's favour. This occurred because the Respondent did not enter a Response within the time limit. The Rule 21 Judgment was sent parties on 2 January 2018 and they were told that this hearing, which was originally intended as a Preliminary Hearing for case management, would be converted to a Remedy Hearing.

2. At the commencement of the hearing Mr Trussler applied for a postponement on the ground that the Respondents intend to apply for an extension of time for the presentation of a Response under Rule 20 of the Tribunal's Rules of Procedure. I have power under Rule 21 to permit a party who has not entered a Response to participate in proceedings at my discretion and I thought it just to consider Mr Trussler's application.

3. Mr Trussler acknowledged that an application under Rule 20 must be in writing accompanied by a draft Response, neither of which are before me. He cannot, therefore, pursue a Rule 20 application today. He contended that the reason why a timely Response was not provided nor this application made sooner is that the Respondents have only recently become aware of the proceedings and/or Rule 21 Judgment.

4. Unsurprisingly Ms Ricci opposed the application. She contended that the Respondents were well aware of the proceedings, pointing to correspondence from the Tribunal to them dated as early as 19 October 2017. The most recent correspondence from Ms Ricci to the Tribunal, dated 12 December 2017, was copied to the Respondents by post.

5. I am satisfied that on every occasion correspondence has gone to the Respondents' address at 157A High Street, London E17 7BX. That is the address the Respondents give on their website and it is the address referred to in the Claimant's contract of employment. All of this is consistent with the Respondents being aware of these proceedings. Everything I have seen is consistent with the Respondents having been served correctly and having knowledge of the proceedings. Furthermore, I note that the Respondents hold themselves out as specialists in employment law so they will have been conscious of the strict time limits which apply in this jurisdiction to important steps such as filing a Response. For these reasons, I see no merit in the application for a postponement and it is dismissed.

6. Having announced this decision to the parties, Mr Trussler withdrew from the proceedings.

### ***Remedy***

7. The Claimant applied to withdraw her complaints under the Equality Act 2010 by email dated 12 December 2017. This has been dealt with separately by Judge Gilbert, who issued the Rule 21 Judgment dealing with liability. I have therefore not made any award in respect of the discrimination elements of the Claimant's complaints. The Claimant also confirmed that no holiday pay is outstanding and I therefore made no award under that head. What remains are claims for a basic award and compensation for

unfair dismissal, a claim for unpaid wages and a claim for an uplift under section 207A of the Trade Union and Labour Relations (Consolidation) Act 1992.

8. I make the following findings on the balance of probabilities.

9. The Claimant was employed by the Respondents as a solicitor between 18 May 2015 and 30 June 2017. The Claimant had given notice on 18 May 2017 and was due to work until 24 August 2017 but resigned with immediate effect on 30 June 2017. The Respondents did not accept her resignation but purported to dismiss her summarily on 3 July 2017 but I am satisfied that the effective date of termination was 30 June 2017.

10. The Claimant was born on 12 October 1981 and was aged 36 at the date of her constructive dismissal. She earned £35,000 per annum gross plus a bonus calculated as 20% of the fees she earned. Her gross weekly wage was £673 and her net pay £520. Additionally, on average she earned £125 net per week (£177 gross approximately) overtime.

11. The Claimant commenced new employment at a higher wage on 1 August 2017.

12. The Respondents failed to pay the Claimant's bonus in the sum of £4,224 gross and she was not paid her full salary and prevented from working overtime in June 2017. The Claimant claims four weeks gross salary and overtime for this period ((£673 + £177) x 4). She must give credit for the sums she received in this period, £732.80 net (£1,050 gross approximately). The amounts due for unpaid wages will be taxable as income when received by the Claimant.

13. The Claimant had no income from the date of her dismissal until the end of her notice period apart from earnings received in the period from 1 August 2017 as calculated in the schedule attached.

14. The Claimant is entitled to a basic award of £978 based on 2 full years' service and gross weekly pay capped at £489.

15. I am satisfied that the Respondents failed to respond to the Claimant's written grievances in accordance with the ACAS Code of Practice and I therefore award a 10% uplift on the awards set out below (apart from the basic award) in accordance with Section 207A of the Trade Union and Labour Relations (Consolidation) Act 1992.

16. The grand total of my awards is £11,952 as set out in the schedule below. This is slightly higher than the figure announced in the hearing as I had not appreciated that the Claimant's schedule of loss had calculated the claim for unpaid wages in June 2017 using net rather than gross figures.

17. The recoupment provisions do not apply.

## **SCHEDULE**

(1) Basic award for unfair dismissal

£978

(2) Compensatory award for unfair dismissal:

<i>8 weeks to end of contractual notice @ £645 net per week:</i>	<i>£5,160</i>	
<i>Less earnings from new job</i>	<i>£1,758</i>	
		<i>£3,402</i>

(3) Loss of earnings in June 2017

<i>4 weeks @ £850 gross per week:</i>	<i>£3,400</i>	
<i>Less gross sums received:</i>	<i>£1,050</i>	
		<i>£2,350</i>

(4) Unpaid bonus (gross) £4,224

(5) 10% uplift on (2) to (4) above £ 998

TOTAL: **£11,952**

Employment Judge Foxwell

8 January 2018