



EMPLOYMENT TRIBUNAL

Claimant: Mrs N Khan

Respondent: Key House Project (In Creditors' Voluntary Liquidation)

Heard at: Leeds **On:** 19 January 2018

Before:
Employment Judge JM Wade

Representation
Claimant: in person
Respondent: no attendance

JUDGMENT

Employment Tribunal Rules of Procedure 2013 – Rule 21

The respondent shall pay the following sums to the Claimant:

Statutory Redundancy Payment:	£5214
Basic Award (awarded as above)	
Compensatory Award	
Unpaid May 2016 to 12 June 2016 salary (net)	£ 2118
Lost earnings to the date of this hearing:	
11 weeks' notice (net)	£ 3883
Lost net earnings 28 August 16 to 24 April 2017	£12002
Lost net earnings 24 April 2017 to 31 July 2017	£ 742
Lost net earnings 31 July to 19 January 2018	£ 1750
Future lost earnings 22 January 18 to 21 January 21	£10920
Lost statutory rights	£ 500
Total	<u>£31915</u>
Grand Total of Compensatory Award capped at	£24,645

REASONS

1 The claimant, acting by solicitors, presented a complaint of unfair dismissal against “Foundation”, a Ms Hauxwell and the respondent on 23 September 2016.

2 The complaints were rejected against Foundation and Ms Hauxwell for lack of ACAS Early Conciliation and that was communicated to solicitors on 6 December 2016.

3 The complaint against the respondent was stayed as a result of an Administration until 27 June 2017.

4 The stay lapsed from the commencement of a creditors’ voluntary liquidation on 27 June 2017.

5 The respondent was given leave to present a response by no later than 22 August 2017 and no response was presented, the liquidators having decided not to incur the costs of defending the proceedings.

6 The claimant’s solicitors ceased acting and the claimant indicated that she proceeded as a litigant in person. A default Judgment as to liability was entered by me on 28 September 2017.

7 Today the Claimant attended with some papers as ordered and gave sworn evidence as to her circumstances. In short, she tells me her best information from her bank is that her salary for May and June of 2016 was not paid by the respondent. Her employment terminated in redundancy circumstances on 12 June. She was then unemployed but not claiming job seekers or other work related benefits, being supported by her family and by reason of the upset caused by the circumstances outlined in her application. She then commenced new work with the DWP on 24 April 2017 on a salary of £18478 (gross, which was confirmed by DWP documentation), but she gained new employment on 31 July 2017, albeit in Oldham as opposed to Bradford giving rise to over £50 a week in extra travelling costs. The gross salary there she has been told was £22,400, and I have determined next weekly pay amounts for the replacement roles applying a working tax and national insurance composite rate of 20%. The claimant tried again this year to obtain employment with Foundation to seek to regain her former earnings but was not successful. Given her case on dismissal, had she not been unfairly selected for redundancy her earnings and employment may well have continued with Foundation.

8 She was under the age of 41 for all of her employment with the respondent and her gross weekly pay on termination of employment was £474 to the nearest pound. On the basis of her improved state of mind and improved earnings over the last year I consider it likely that after three years she will have recovered her former salary, and I therefore award future loss in this respect (subject to the statutory cap).

9 I have explained that aspects of the Awards above may be paid by the National Insurance Fund (via the Insolvency Service) in the event that they are unpaid by the Respondent.

Employment Judge JM Wade

Date 19 January 2018