EMPLOYMENT TRIBUNALS

Claimant: Mrs D Sellars

Respondent: Ms Louise Wainwright t/a The Hair Shop

Heard at: Nottingham

On: 15th and 20th March 2018

Before: Employment Judge Milgate (sitting alone)

Representation
Claimant: Dr M Ahmad, Counsel
Respondent: In person

JUDGMENT having been sent to the parties on 9 April 2018, the following reasons are provided in response to a request by the Respondent.

REASONS

A. Claims and Issues

1. By her claim form, which was presented on 2 October 2017, the Claimant, who had been employed as a stylist at the Respondent's hair salon, brought the following claims against the Respondent:

   (i) two days wages;
   (ii) holiday pay;
   (iii) a statutory redundancy payment
   (iv) 12 weeks' notice pay; and
   (v) unfair dismissal.

   At the hearing Mr Ahmad, on behalf of the Claimant, conceded she had been paid all the holiday pay that was due to her and withdrew that claim. The Respondent also conceded that two days wages were due. However, the claims for notice pay, for a statutory redundancy payment and for unfair dismissal were all contested.

2. So far as the unfair dismissal claim was concerned, there was an issue as to whether the Claimant had been dismissed. The Claimant's principal argument was that she had been the subject of an express dismissal by the Respondent during an altercation on 6 June 2017. It was her case that this dismissal was either on the ground of redundancy - in which case it was procedurally unfair - or alternatively it was because she had asserted a statutory right – in which case it was automatically unfair.

3. If I was not persuaded that there had been an express dismissal then the Claimant argued, in the alternative, that there had been a constructive dismissal. This was on the basis that (i) her treatment during the altercation on 6 June 2017 amounted to a breach of the implied term of trust and confidence by the Respondent and (ii) the Claimant's subsequent conduct in not going back to work as normal two days later amounted to a resignation in response to that breach. (If I found that there had been a constructive dismissal then the arguments in relation to the reason for dismissal and fairness were the same.)

4. The issues for determination in her claim for a redundancy payment were (i) whether there had been a constructive or express dismissal and (ii) if so whether the reason for her dismissal satisfied the statutory definition of redundancy set out in section 139 Employment Rights Act 1996.

5. Finally, the claim for notice pay proceeded on the basis that the Claimant had been dismissed without notice on 6 June 2017. It was her case that there were no grounds for summary dismissal and so she was entitled under her contract to twelve week's written notice, which she had never been given. She therefore claimed to be due twelve week's net pay as damages for breach of contract, subject to mitigation of loss.

6. The Respondent, for her part, did not accept that the Claimant's employment had terminated as a result of dismissal (whether express or constructive). On the contrary, the Respondent's defence to all three outstanding claims was that the Claimant had resigned of her own volition during the argument on 6 June 2017. That being the case, there was no basis for any of the claims and they should all fail.

B. Evidence and procedure

7. The Claimant and the Respondent each gave evidence on their own behalf. The Respondent also called her daughter, Ms Heidi Townroe, who had worked in the business. In addition, the Respondent produced a witness statement from Ms Chloe Earrye, a former employee of the salon. However, as Ms Earrye did not attend to give evidence, it could be given only limited weight. There was an agreed bundle of over 70 pages.

8. Judgment and oral reasons were given at the end of the hearing. These written reasons are produced in response to a request from the Respondent.

C. Findings of fact

Background

9. The Claimant began working for the Respondent as a hair stylist in the Respondent's hairdressing business in March 1997. The Respondent was a sole trader. Her business was based at premises in Mansfield, Nottinghamshire and traded under the name 'The Hair Shop'. By the time of the events in this case, the Claimant and the Respondent had worked together closely for over 20 years and regarded each other as close friends.

10. The Claimant worked three days per week in the salon on Mondays, Tuesdays and Fridays. At the end of each working day she was in the habit of taking her scissors and other styling tools home with her.

11. It was agreed by the parties that the Claimant was paid £161.25 per week gross (£160.71 net) and that she was trusted with a key to the salon.

12. The Respondent's daughter, Ms Heidi Townroe also worked in the business as a receptionist. There were two other members of staff, Chloe Earrye and a woman named Kirsty.

13. The Claimant had a written contract of employment which incorporated terms from the National Hairdressers' Federation Handbook. Clause 7 of the handbook dealt with termination and provided as follows:-

    'The minimum periods of notice for terminating your employment are as follows… 7.1.2 From the Employer to you one week in writing after four weeks' employment and before completion of the first year of service. After one years' service this increases by one week for every complete year of service up to a maximum of twelve weeks after twelve years' service.'

    Given the Claimant's long service she was therefore due 12 weeks' written notice of termination pursuant to this clause. (This period is equal to the minimum statutory period of notice that an employer is obliged to give such a longstanding employee under section 86 ERA 1996.)

Closure of the business

14. Unfortunately, by the spring of 2017, it was becoming clear to the Respondent that the salon was losing money. Accordingly, on 2 May 2017 Ms Wainwright warned Mrs Sellars that she would be looking to close the business as she could no longer afford to keep it going. This was the first the Claimant knew about the gravity of the situation and she was understandably shocked and very concerned. She had an established client base and did not want to lose her job.

15. There was a dispute about the significance of this conversation. However, on balance I decided that this conversation merely constituted an informal warning that business was bad and that the Claimant's employment was at risk. It did not amount to formal notice of termination. I took this view for two reasons. In the first place no firm termination date was mentioned. This was for good reason – as the Respondent explained in her evidence, she was still hoping against hope that she could sell the business as a going concern. As a result, she thought there was still a chance that the Claimant would be taken on by a new buyer and so she was not in a position to confirm closure of the business or give a firm termination date. Secondly, despite the terms of the Claimant's contract, no written notice was given at this stage. This was significant, bearing in mind that the Respondent had been in business a long time, was experienced enough to issue written contracts to her staff and was in communication with her accountant. I therefore was not persuaded that this conversation constituted a valid notice to terminate the contract.

16. A few days later, on 19 May 2017 (by which time it was looking very unlikely that a buyer could be found), the Respondent told the Claimant in clear terms that the salon would be closing on 1 July 2017. That was just over 10 weeks' notice, rather

than the 12 weeks demanded by the contract. However, the notice was not confirmed in writing as clause 7.1.2 required.

17. In the meantime, the Respondent had been trying to help the Claimant secure alternative employment. So, for example, she accompanied the Claimant to a local gym to explore the possibility of the Claimant becoming self-employed and renting a chair in the salon there. In addition, she used her contacts to see if they knew of any vacancies. In making these efforts, I accept that she genuinely wanted to help the Claimant find another job.

18. Nonetheless, despite this assistance, the Claimant was understandably concerned at the situation and during a conversation on 24 May 2017 she told the Respondent that she wanted written confirmation of the position, both in relation to notice pay and also to her entitlement to a redundancy payment. In response, the Respondent told her that her notice would be 'backdated' to 2 May 2017 and that she would be hearing from the Respondent's accountant in due course.

19. This reply did not reassure the Claimant and she began to worry that she would be denied her legal entitlements. Indeed, when the Claimant attended work a few days later, on Tuesday 30 May 2017, the Respondent told her that she had had to borrow money to keep the business going and that there was no money left. She also stated that at the end of the day it would not make a lot of difference to the Claimant's lifestyle if she did not receive her redundancy pay.

20. I accept that the Respondent was under considerable stress at this stage and that she was finding it hard to accept that the business she had run for so many years would have to close. However, this comment clearly inflamed matters. As a result, the friendship that had endured over so many years began to fray. As the Claimant explained in her evidence, 'alarm bells' began to ring and she lost confidence that she was going to be treated fairly and in accordance with her employment rights.

Events of 6 June 2017

21. We then turn to the events of Tuesday 6th June 2017. By this stage the Claimant had still not received any written confirmation of the position regarding notice and redundancy pay and she was increasingly worried that she might not receive all the money due to her when the salon closed. The Claimant completed her working day as normal and then she raised her concerns with the Respondent in the kitchen of the salon. The conversation soon escalated into an argument. At one point the Claimant asked the Respondent:

    'Do you understand employment law? Does your accountant realise I'm entitled to 3 months' written notice and redundancy?'

    In response the Respondent told the Claimant that they would have to come to some arrangement. She reiterated that the Claimant's notice pay would be backdated to 2 May 2017, and (no doubt in an effort to elicit some sympathy for her position) she told the Claimant that as a result of the collapse of the business she had no funds to pay a lump sum and was 'on her knees'. She had lost everything. The Claimant responded:

    'That isn't my problem. I want what I'm entitled to'.

22. The argument then became very heated and, as the Respondent admitted in her evidence, she completely lost her temper. She could not understand why someone who had been such a close friend, could not be more understanding of her current difficulties. She felt that the Claimant was being totally unreasonable in pressing for payment. As she admitted in her evidence she told the Claimant to "fuck off" and also that the Claimant disgusted her. She then told the Claimant to leave the salon.

23. I accepted the Claimant's evidence that this was not a workplace in which you would expect to hear such foul language and certainly she had never before heard the Respondent use this term in the salon. As a result, she was deeply shocked and upset by this behaviour. She felt that she had simply been insisting on her legal rights and to be treated in this way was outrageous.

24. As a result of being spoken to in this way, Mrs Sellars demanded to know if she was being dismissed. The answer the Respondent gave to this question is the subject of considerable dispute. The Respondent claimed that she said no to this question a number of times and that both she and her daughter expected the Claimant back in the salon on the following Friday. By contrast the Claimant maintained that the Respondent said yes initially, (ie that she *was* being dismissed) and then, when the question was repeated, did not answer. It was the Claimant's evidence that in those circumstances she understood she had been dismissed. She left the salon shortly afterwards, never to return, believing that she no longer had a job.

25. On balance I preferred the Claimant's evidence on this matter and accept that the Respondent did confirm that the Claimant was being dismissed. I came to that finding for a number of reasons. Firstly, although the Respondent's daughter, Heidi Townroe, gave evidence to support her mother's version of events, that evidence had to be treated with some caution. This was not only because of the close family relationship between the two women but also because Ms Townroe accepted that she had been in reception when the argument had started and so had not heard all of the discussion. Secondly - and in my view this was of particular significance - it was accepted by both of the Respondent's witnesses that just before the Claimant left the salon she was asked by Ms Townloe to hand over her key. To my mind that was exactly the kind of behaviour to be expected when someone has just been summarily dismissed. Thirdly I noted that, at one point in her evidence, Ms Townloe suggested that the other two employees (Chloe and Kirsty) had been asked for their keys around the same time, the implication being that it would wrong to attach any special significance to the fact she had asked for the Claimant's key on this occasion. However, Ms Townloe's evidence on this issue was vague and unconvincing, and she later accepted that it was possible she had only asked Chloe and Kirsty for their keys some weeks later when the salon actually closed (which was clearly much more logical). Equally, in my view, the Respondent's claim that she expected the Claimant back at work on the following Friday – as normal - after such an acrimonious dispute was inherently improbable, particularly as the Respondent consulted her accountant on Thursday 8 June 2017 for advice, suggesting she was well aware that matters had gone too far to expect the Claimant to return to work as usual.

26. Having spoken to her accountant the Respondent sent a letter to the Claimant on Thursday 8 June 2017 which stated as follows:

'I was surprised that you asked me at least 4 times before you left if I was dismissing you. Each time I replied that I was not. You had prepared for the discussion by packing up all your personal possessions and collecting your tips. Thus it appears to me that you had planned to leave the salon and engineered the situation… you have walked out with no intention of returning to work.'

Although written only two days after the altercation, I was not persuaded that this was an accurate version of events. In the first place it contradicted the Respondent's oral evidence to the effect that she expected to see the Claimant back at work the next day (ie on Friday 9th June). Secondly given the nature of the altercation and the foul language the Respondent had used (and admitted she had used), the suggestion that she was surprised when the Claimant asked her whether she was being dismissed lacked credibility. In addition, the fact that the Claimant had packed up her tools was simply normal practice at the end of a working day. I therefore regarded this a somewhat self-serving document to which I could give very little weight.

27. The Respondent sent the Claimant a second letter on 8 June 2017, purporting to give 'written confirmation of the verbal 3 months' notice given …on 2 May 2017'. The Claimant did not respond to either letter and never returned to the salon. The business ceased to trade on 1 July 2017. However, at the time of the hearing the Respondent had, in her words, 'managed to avoid personal bankruptcy or insolvency'.

28. Following termination of her employment the Claimant decided to set up her own business as a mobile hairdresser. She commenced this venture on 3 July 2017. At first she had just a few clients but gradually built the business up. She estimates she earned about £346 in July 2017 and about £600 in August 2017. She did not apply for any state benefits following her dismissal.

D. The Applicable Law

Unfair dismissal

29. The law in relation to unfair dismissal is contained in the Employment Rights Act 1996 ("ERA 1996"). Section 94(1) ERA 1996 provides that an employee has the right not to be unfairly dismissed by the employer. Section 95 ERA 1996 sets out the statutory definition of dismissal. This definition includes an express dismissal, where the employment contract is terminated by the employer and a constructive dismissal where the employee terminates the employment contract (with or without notice) in circumstances in which he or she is entitled to terminate it without notice by reason of the employer's conduct.

30. Case-law has established that in order to show that he or she has been constructively dismissed in accordance with this definition the employee must demonstrate that:

(i) the employer has committed a breach of contract so serious that it goes to the heart of the contract (**Western Excavating v Sharp [1978] ICR 221**). This concept is usually referred to as a "fundamental" breach.
(ii) the employee has resigned in response to the fundamental breach (although the fundamental breach need only be an effective cause, not necessarily the principal cause, of the resignation (**Holland v Glendale Industries Ltd [1998 ICR 493 and Wright v North Ayrshire Council UK EAT/0017/13**) and;

(iii) the employee has not affirmed the contract by delaying his resignation too long or by doing anything else that indicates affirmation of the contract.

It is also clear from the case-law that breach of the implied term of trust and confidence is always regarded as a fundamental breach (**Morrow v Safeway Stores PLC [2002] IRLR 9**). A breach of the trust and confidence term occurs if the employee can show that the employer, without reasonable and proper cause, conducted itself in a manner calculated or likely to destroy or seriously damage the relationship of trust and confidence that should exist between employer and employee (see **Malik v BCCI [1997] IRLR 462** as interpreted by the EAT in **Baldwin v Brighton and Hove City Council [2007] ICR 680**). It is important to note that the test of whether there has been a breach of the trust and confidence term is an objective one.

31. Where it is established that an employee has been dismissed, the next stage of the enquiry is to establish the reason for dismissal. Section 98(1) ERA 1996 provides that in determining whether the dismissal of an employee is fair or unfair it is for the employer to show the reason (or if more than one the principal reason) for the dismissal. and that it is one which the law regards as being potentially fair.

32. Where the employer is able to show that there was a potentially fair reason then under section 98(4) ERA 1996 it is for the Tribunal to determine, in light of all the circumstances, whether or not the employer acted reasonably in all the circumstances of the case. If not, the dismissal will be unfair. Section 98(4) provides as follows:-

"*The determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer)*
(a)depends on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating [conduct] as a sufficient reason for dismissing the employee, and
(b)shall be determined in accordance with equity and the substantial merits of the case".

33. A list of the potentially fair reasons for dismissal is set out in sections 98(1)(b) and 98(2) ERA 1996. This list includes redundancy. However certain reasons for dismissal are considered to be automatically unfair. This means that once the Tribunal finds that the reason or principal reason for dismissal falls within this special category then the dismissal will be automatically unfair and section 98(4) ERA 1996 becomes irrelevant.

34. Dismissal on the ground that the employee has asserted a statutory right is a reason which renders a dismissal automatically unfair. So much is clear from section 104 ERA 1996 which states that:

'An employee… shall be regarded as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that the employee… alleged that the employer had infringed a right of his which is a relevant statutory right.'

35. Under section 104(4) ERA 1996 a 'relevant statutory right' includes the right to minimum periods of notice set out in section 86 ERA 1996 and any other right conferred by the ERA 1996 'for which the remedy for its infringement is by way of a complaint or reference to an employment tribunal'. The right to a redundancy

payment, which is granted by section 135 ERA 1996 and enforced by reference to a tribunal under section 163 ERA 1996, clearly falls within this definition.

36. It is well established that when considering the reason for dismissal the Tribunal is concerned with the reason that was present in the employer's mind at the time of the decision to dismiss. It is a 'set of facts known to the employer, or it may be of beliefs held by [the employer] which cause him to dismiss the employee' (see **Abernethy v Mott Hay and Anderson** [1974] ICR 323). The enquiry is focused on the factors operating on the mind of the decision maker and what motivates them to do what they do (see **Beatt v Croydon Health Services** [2017] EWCA Civ 401.

The right to statutory redundancy pay

37. The provisions governing statutory redundancy payments are found in Part XI ERA 1996. Under section 135 ERA 1996 an employee is entitled to a redundancy payment if the employee is "dismissed by the employer by reason of redundancy." Dismissal for these purposes includes a constructive dismissal (see section 136(1)(c) ERA 1996).

38. Dismissal for redundancy is defined, so far as relevant, by section 139(1) ERA 1996 to include the situation where the dismissal is "wholly or mainly attributable to the fact that [her] employer has ceased or intends to cease to carry on the business for the purpose of which the employee was employed by him…'

39. The right to a redundancy payment only arises if the employee has at least two years' continuous employment (section 155 ERA 1996), a condition clearly satisfied in this case. In addition, by virtue of section 163(2) ERA 1996, when a Tribunal considers any claim for a statutory redundancy payment there is a presumption that the reason for dismissal is redundancy "unless the contrary is proved". (Strangely this presumption only operates in the context of a claim for a statutory redundancy payment. It is not relevant to a claim of unfair dismissal where the reason relied on is redundancy.)

Claims for notice pay

40. The Claimant also brought a separate claim for breach of contract, alleging that she was dismissed without being given twelve weeks' written notice, as required under clause 7.1.2 of the National Hairdressers' Federation terms in her contract. Case law makes it clear that it is a defence to such a claim if the employer can show that the employee was guilty of gross misconduct amounting to a repudiatory breach of contract. However, without such gross misconduct the employer who dismisses without complying with the notice provisions in the contract will have acted in breach of contract and will be liable to pay the employee damages to compensate for the loss occasioned by the breach.

41. The purpose of such damages is to put the Claimant in the position she would have been in if the Respondent had performed its obligations in accordance with the contract. In the employment context this means that in general where a Claimant has been wrongfully dismissed without due notice then damages should be equivalent to the amount she would have earned if contractual notice had been given (in this case twelve weeks' pay). However, as damages are intended to be compensatory, this principle is subject to the Claimant's duty to mitigate her loss

E. Applying the law to the facts of this case

The unfair dismissal claim

Was the Claimant dismissed by the Respondent?

42. It is clear from my primary findings of fact (which include the finding at paragraph 25 above that the Respondent confirmed that she was dismissing the Claimant) that I am persuaded that the Claimant was expressly dismissed by the Respondent on 6 June 2017, the dismissal to have immediate effect.

43. That is my principal finding. However, for the avoidance of doubt, even if there had been no express words confirming dismissal, I would have found there to have been a constructive dismissal in any event. The Claimant had been told to 'fuck off' and that she disgusted the Respondent. She was then told to relinquish her key to the salon. Bearing in mind that this was a workplace where the use of such foul language was highly exceptional and given the Claimant's long service I would have found that, viewed objectively, such behaviour was calculated to destroy the Claimant's trust and confidence in the employment relationship. Moreover, there was no reasonable and proper cause for the Respondent's conduct. The Claimant was simply insisting on her rights. In those circumstances there was clearly a breach of the trust and confidence term. In addition, I would have found that the Claimant's conduct in not returning to work constituted a resignation and that the effective cause of that resignation was the Respondent's behaviour on 6 June 2017. A constructive dismissal would therefore have been made out.

What was the reason for dismissal?

44. Having found that the Claimant was dismissed on 6 June 2017, I then turned to consider the reason for dismissal. As noted above, it is for the Respondent to show the reason for dismissal. However, the Respondent put forward no such reason, putting her case solely on the ground that there had been no dismissal. As she lost on that issue, the claim for unfair dismissal must necessarily succeed.

45. However, I would add - again for the avoidance of doubt - that the evidence did not support a finding of a fair reason for dismissal, such as redundancy. Although the Claimant's dismissal on 6 June 2017 occurred in the context of a redundancy situation, in my judgment the principal cause of the Claimant's dismissal was not the fact that the business was closing in the near future. It was the fact that the Claimant had highlighted the Respondent's failure to give her twelve weeks' notice and her entitlement to redundancy pay – and then insisted on her rights. It was that insistence which so inflamed the Respondent. As a result, the Respondent lost her temper and dismissed the Claimant with immediate effect.

46. If necessary I would therefore have found that the dismissal was automatically unfair under section 104 ERA 1996. The Claimant was clearly asserting the statutory right to twelve weeks' notice given by section 86 ERA 1996. Similarly, she was also insisting on her right to a redundancy payment under section 135 ERA 1996. It was this insistence on her rights that led to her dismissal.

47. Finally, and for completeness, it should be stated that even if there had been a fair reason for dismissal, the Respondent's failure to follow any kind of fair process before dismissing the Claimant would have rendered the dismissal unfair under section 98(4) ERA 1996 in any event. For all these reasons the claim of unfair dismissal succeeds.

The claim for a statutory redundancy payment

48. I then considered the claim for a redundancy payment. As noted above, under section 135 ERA 1996 a redundancy payment is only payable if the employee is dismissed by reason of redundancy. Furthermore, under section 139 ERA 1996 a dismissal by reason of redundancy only occurs if (so far as relevant) the dismissal is 'wholly or mainly' attributable to the fact that the employer intends to close the business. In this case the evidence does not support such a finding. The dismissal was 'wholly or mainly' because the Claimant asserted her statutory right to notice pay, and the fact that there was a background redundancy situation makes no difference to that finding. (I have considered the statutory presumption that, where a claim is brought under section 135 ERA1996, the reason for dismissal is presumed to be redundancy 'unless the contrary is proved'. In my judgment the presumption is displaced by the weight of the evidence in this case.)

The claim for notice pay

49. As far as the claim for notice pay is concerned, Dr Ahmad on behalf of the Claimant relied on clause 7.1.2 of the National Hairdressers' Federation terms to argue that the Claimant had been dismissed in breach of the notice provisions in her contract. He argued that Clause 7.1.2 required the Claimant to be given 12 week's written notice and it was clear that this had never happened. It was no answer to say that the Claimant was given oral, short notice on 19 May 2017 – that was not what the contract demanded. Equally, the Respondent's attempt to give 'backdated' notice by letter of 8 June 2017 was completely ineffective. As a result, the Claimant's dismissal on 6 June 2017 was in breach of contract, as there was no conduct on the part of the Claimant to justify summary dismissal. I agree with those arguments and so find that the Claimant's claim to 12 weeks' notice pay succeeds (subject to the duty to mitigate her loss).

Remedy

50. *Wages*

    It was agreed that the Respondent owed the Claimant the sum of £107.50 by way of unpaid wages (gross).

51. *Notice pay*

    The claim for 12 weeks' notice pay was calculated by reference to net pay (160.71). Twelve weeks at that rate is £1928.00. However, the Claimant mitigated her loss by setting up a mobile hairdressing business on 3 July 2017, a few weeks after her dismissal. The evidence suggested she earned some £946.00 during the period 3 July 2017 to 28 August 2017. The amount of damages payable to her is therefore £1928.00 - £946.00 = £982.00.

52. *Unfair dismissal*

    So far as the remedy for unfair dismissal is concerned, most awards of compensation have two parts. The first part, known as the basic award, is calculated in accordance with the provisions found in sections 119 to 122 ERA 1996. As these provisions make clear, there is a statutory formula for calculating the basic award which depends on the employee's length of service, her age at dismissal and her gross weekly pay.

53. At the date of dismissal, the Claimant was aged 53 and had 20 complete years of service. According to the statutory formula she is to be awarded one and a half weeks' pay for every year in which she was not below the age of 41 and one week's pay for each of the remaining years. This means that her gross weekly pay (£161.25) had to be multiplied by 26 to give a figure of £4192.50. (There are a number of grounds on which a Tribunal may reduce a basic award but, given the evidence available to the judge, none was applicable in this case.)

54. The second part of an unfair dismissal award is the compensatory award. Under section 123 ERA 1996 "the amount of the compensatory award shall be such amount as the tribunal considers just and equitable in all the circumstances having regard to the loss sustained by the complainant in consequence of the dismissal in so far as that loss is attributable to action taken by the employer." It is established law that this part of the award is intended to compensate the employee for financial loss suffered as a result of the dismissal. However, the award usually includes a small figure to take account of the fact that the employee will have to requalify for minimum notice rights and unfair dismissal protection in any new employment and so has lost valuable statutory rights.

55. In this case it is clear that, had she not been dismissed on 6 June 2017, the Claimant's employment would have terminated on 1 July 2017 when the salon closed so, in my judgment, compensation for unfair dismissal should be limited to this date. However, the award for notice pay already compensates her for this period and so in my judgment it is just and equitable to restrict the compensatory award to £350, that being the figure she claims for loss of statutory rights.

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Employment Judge Milgate

Date: 03 September 2018

REASONS SENT TO THE PARTIES ON

04 September 2018

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FOR THE TRIBUNAL OFFICE