



EMPLOYMENT TRIBUNALS

Claimants:

1. Chantel Brown
2. Karen McNally
3. Tina Burgess
4. Deborah Duke
5. Garbriela Bastos
6. Caroline Cornish
7. Susannah Hutton
8. Claire Seddon
9. Sophie Rule

Respondents:

1. Henriette Le Forestier Schools Ltd (in liquidation)
2. Secretary of State for Business Energy & Industrial Strategy

Heard at: London South **On:** 19th October 2017

Before: Employment Judge Tsamados (sitting alone)

Representation

Claimants: Mr C Adjei of Counsel
Respondents: Not present or represented

CORRECTED JUDGMENT

The **Judgment** of the Employment Tribunal is as follows:

(Where the following differs from the oral judgment is by way of reconsideration taking into account arithmetic corrections to the figures provided and/or given and the methodology applying.)

Chantel Brown – the First Claimant

- 1) The First Claimant was unfairly dismissed and is entitled to compensation as set out below. These figures are based on gross weekly pay of £706.15, gross daily pay of £100.88 and net weekly pay of £486.90.

- a) Basic Award: nil as extinguished by receipt of a statutory redundancy payment from the Insolvency Service;
 - b) Compensatory Award: the First Claimant suffered no loss of earnings accrued or future having mitigated her loss. She is awarded £500 for loss of statutory rights.
 - c) The Employment Protection (Recoupment of Benefits) Regulations 1996 do not apply.
- 2) The First Claimant suffered unauthorised deductions from wages in respect of arrears of wages owed to her by the First Respondent between 1st February and 22nd March 2017. However, she subsequently received her arrears of salary from the Insolvency Service and so any award of compensation is extinguished.
 - 3) The First Claimant is entitled to damages in breach of contract from the First Respondent in respect of its failure to provide her with contractual notice of dismissal from 22nd March to the end of the Summer Term on 31st August 2017 but those damages are extinguished by income received by way of mitigation of that loss.
 - 4) The First Claimant is entitled to a protective award payable by the First Respondent. A protective award is made against the First Respondent in respect of such of its former employees as it dismissed by reason of redundancy on or after 22nd March 2017. The protective award is for 90 days from 22nd March 2017 onwards. The amount of the First Claimant's protective award is calculated as follows: £100.89 gross daily pay x 90 days = £9,080.10.
 - 5) The total award to the First Claimant is £9,580.10.

Karen McNally – the Second Claimant

- 1) The Second Claimant was unfairly dismissed and is entitled to compensation as set out below. These figures are based on gross weekly pay of £773, gross daily pay of £110.43 and net weekly pay of £523.55.
 - a) Basic Award: nil as extinguished by receipt of a statutory redundancy payment from the Insolvency Service;
 - b) Compensatory Award: accrued loss of earnings between 23rd March and 31st August 2017 but extinguished by the award of damages for breach of contract set out below. She is awarded £500 for loss of statutory rights. There is no claim for future loss.
 - d) The Employment Protection (Recoupment of Benefits) Regulations 1996 do not apply.
- 2) The Second Claimant suffered unauthorised deductions from wages in respect of arrears of wages owed to her by the First Respondent. However,

she subsequently received her arrears of salary from the Insolvency Service and so any award of compensation is extinguished.

- 3) The Second Claimant is entitled to damages in breach of contract from the First Respondent in respect of its failure to provide her with contractual notice of dismissal from 22nd March to the end of the Summer Term on 31st August 2017 in the sum of £12,091.60 (£2,268.74 net monthly pay x 5 months plus 10 days at £74.59) less £4,311.00 notice pay received from the Insolvency Service) = £7,780.60 net.
- 4) The Second Claimant is entitled to a protective award payable by the First Respondent. A protective award is made against the First Respondent in respect of such of its former employees as it dismissed by reason of redundancy on or after 22nd March 2017. The protective award is for 90 days from 22nd March 2017 onwards. The amount of the Second Claimant's protective award is calculated as follows: £110.43 daily gross pay x 90 = £9,938.70.
- 5) The total award to the Second Claimant is £18,219.30.

Tina Burgess – the Third Claimant

- 1) The Third Claimant was unfairly dismissed and is entitled to compensation as set out below. These figures are based on gross weekly pay of £286.38, gross daily pay of £40.91 and net weekly pay of £253.38.
 - a) Basic Award: nil as extinguished by receipt of a statutory redundancy payment from the Insolvency Service;
 - c) Compensatory Award: accrued loss of earnings between 23rd March and 31st August 2017 of £5,809.19 (£1098 net monthly pay x 5 months plus 9 days at £1098 ÷ 3.44 (31 ÷ 9)) plus the First Respondent's contributions to her pension for the same period of £64.97 (£12.28 per month x 5 months plus 9 days at £12.28 ÷ 3.44) which is a total of £5,874.16 less the award of damages for breach of contract of £3,936.65 shown below = £1937.51. She is awarded £500 for loss of statutory rights. No claim was made for future loss.
 - e) The Third Claimant received Jobseekers Allowance during the compensatory award period. The Employment Protection (Recoupment of Benefits) Regulations 1996 apply.
- 2) The Third Claimant suffered unauthorised deductions from wages in respect of arrears of wages owed to her by the First Respondent. However, she subsequently received her arrears of salary from the Insolvency Service and so any award of compensation is extinguished.
- 3) The Third Claimant is entitled to damages in breach of contract from the First Respondent in respect of its failure to provide her with contractual notice of dismissal from 22nd March to the end of the Summer Term on 31st August 2017 in the sum of £5,809.19 less £1,872.54 received in respect of notice pay from the Insolvency Service = £3,936.65.

- 4) The Third Claimant is entitled to a protective award from the First Respondent. I have made a protective award against the First Respondent in respect of such of its former employees as it dismissed by reason of redundancy on or after 22nd March 2017. The protective award is for 90 days from 22nd March 2017 onwards. The amount of the Third Claimant's protective award is calculated as follows: £40.91 daily gross pay x 90 = £3,681.90.
- 5) The total award to the Third Claimant is £10,056.06.
- 6) The Employment Protection (Recoupment of Benefits) Regulations 1996 apply and I give the following information:
 - (a) Grand total £10,056.06
 - (b) Prescribed element £1937.51
 - (c) Period of prescribed element from 23rd March to 31st August 2017
 - (d) Excess of grand total over prescribed element £8,118.55.

Deborah Duke – the Fourth Claimant

- 1) Counsel indicated that the Fourth Claimant no longer wishes to proceed with her claims and so her claim is dismissed on withdrawal.

Gabriela Bastos – the Fifth Claimant

- 1) The Fifth Claimant was unfairly dismissed and is entitled to compensation as set out below. These figures are based on gross weekly pay of £273.94, gross daily pay of £39.13 and net weekly pay of £183.84.
 - a) Basic Award: nil as extinguished by receipt of a statutory redundancy payment from the Insolvency Service;
 - b) Compensatory Award: accrued loss of earnings between 23rd March and 31st August 2017 of £4,239.41 (£796.65 net monthly pay 5 5 months plus 9 days at £796.65 ÷ 3.44 (31 ÷ 9)) less the later award of damages for breach of contract as set out below of £1998.15 = £2,241.26. She is awarded £500 for loss of statutory rights. No award was claimed for future loss.
 - c) The Employment Protection (Recoupment of Benefits) Regulations 1996 do not apply.
- 2) The Fifth Claimant suffered unauthorised deductions from wages in respect of arrears of wages owed to her by the First Respondent. However, she subsequently received her arrears of salary from the Insolvency Service and so any award of compensation is extinguished.
- 3) The Fifth Claimant is entitled to damages in breach of contract from the First Respondent in respect of its failure to provide her with contractual notice of dismissal from 22nd March to the end of the Summer Term on 31st August 2017 in the sum of £4,239.41 less notice pay received from the Insolvency

Service of £1,160.10 and net income received between 1st June and 31st August 2017 of £1081.16 reducing the figure to £1998.15.

- 4) The Fifth Claimant is entitled to a protective award from the First Respondent. I have made a protective award against the First Respondent in respect of such of its former employees as it dismissed by reason of redundancy on or after 22nd March 2017. The protective award is for 90 days from 22nd March 2017 onwards. The amount of the Fifth Claimant's protective award is calculated as follows: £39.13 daily gross pay x 90 = £3,521.70.
- 5) The total award to the Fifth Claimant is £8,261.11.

Caroline Cornish – the Sixth Claimant

- 1) The Sixth Claimant was unfairly dismissed and is entitled to compensation as set out below. These figures are based on gross weekly pay of £775.26, gross daily pay of £110.75 and net weekly pay of £524.88.
 - a) Basic Award: nil as extinguished by receipt of a statutory redundancy payment from the Insolvency Service;
 - b) Compensatory Award: accrued loss of earning from 23rd March to 19th October 2017 (the date of this hearing) 6 months and 27 days = £15,671.46 (£2,274.50 net monthly pay x 6 months plus 27 days at £74.98 per day) less income from further employment from 1st June to the date of this Judgment of £5,714.30 (at £1,813.33 per month net) and less damages for breach of contract awarded below of £7,937.92 = £2,019.24; plus future loss of earnings from 20th October 2017 to 31st August 2018 of £23,567.58 (10 months and 11 days) less anticipated earnings from further employment of £18,789.01 (at £1,813.33 per month net) = £6,797.81. She is also awarded £500 of loss of statutory rights.
 - c) The Employment Protection (Recoupment of Benefits) Regulations 1996 do not apply.
- 2) The Sixth Claimant suffered unauthorised deductions from wages in respect of arrears of wages owed to her by the First Respondent between 1st February and 22nd March 2017 in the sum of £3,919.66 less payment subsequently received from the First Respondent of £750.58 and payment received from the Insolvency Service of £2,572.20 = £596.88.
- 3) The Sixth Claimant is entitled to damages in breach of contract from the First Respondent in respect of its failure to provide her with contractual notice of dismissal from 22nd March to the end of the Summer Term on 31st August 2017 £12,047.32 (£2,274.50 net monthly pay x 5 months plus 9 days at £74.98) less notice pay received from the Insolvency Service of £4,109.40 = £7,937.92.
- 4) The Sixth Claimant is entitled to a protective award payable by the First Respondent. A protective award is made against the First Respondent in respect of such of its former employees as it dismissed by reason of redundancy on or after 22nd March 2017. The protective award is for 90

days from 22nd March 2017 onwards. The amount of the Sixth Claimant's protective award is calculated as follows: £110.75 gross daily pay x 90 days = £9,967.50.

- 5) The total award to the Sixth Claimant is **£25,800.11**.

Susannah Hutton – the Seventh Claimant

- 1) The Seventh Claimant was unfairly dismissed and is entitled to compensation as set out below. These figures are based on gross weekly pay of £557.61, gross daily pay of £79.66 and net weekly pay of £391.59.
 - a) Basic Award: nil as extinguished by receipt of a statutory redundancy payment from the Insolvency Service;
 - b) Compensatory Award: accrued loss of earnings from 23rd March to the date of this hearing (6 months 27 days at 6 x £1,696.90 net monthly pay and 27 x £55.94 net daily pay) of £12,203.23 less income received of £6,839.39 less damages for breach of contract awarded below of £8177.58 = nil. She is awarded £500 for loss of statutory rights. No award was claimed for future loss.
 - c) The Employment Protection (Recoupment of Benefits) Regulations 1996 do not apply.
- 2) The Seventh Claimant suffered unauthorised deductions from wages in respect of arrears of wages owed to her by the First Respondent between 1st February and 22nd March 2017. However, she subsequently received her arrears of salary from the Insolvency Service and so any award of compensation is extinguished.
- 3) The Seventh Claimant is entitled to damages in breach of contract from the First Respondent in respect of its failure to provide her with contractual notice of dismissal from 22nd March to the end of the Summer Term on 31st August 2017 in the sum of £8,987.96 (5 months x £1696.90 plus 9 days x £55.94) less payment received from the Insolvency Service of £810.38 = £8,177.58.
- 4) The Seventh Claimant is entitled to a protective award payable by the First Respondent. A protective award is made against the First Respondent in respect of such of its former employees as it dismissed by reason of redundancy on or after 22nd March 2017. The protective award is for 90 days from 22nd March 2017 onwards. The amount of the Seventh Claimant's protective award is calculated as follows: £79.66 gross daily pay x 90 days = £7,169.40
- 5) The total award to the Seventh Claimant is £15,846.98.

Claire Seddon – the Eighth Claimant

- 1) The Eighth Claimant was unfairly dismissed and is entitled to compensation as set out below. These figures are based on gross weekly pay of £773.08,

gross daily pay of £110.40, net weekly pay of £523.60 and net daily pay of £74.80.

- a) Basic Award: nil as extinguished by receipt of a statutory redundancy payment from the Insolvency Service;
 - b) Compensatory Award: accrued loss of earnings from 22nd March to 31st August 2017 in the sum of £12,017.90 (5 months at £2,268.94 net monthly pay plus 9 days at £74.80) less damages for breach of contract of £11,059.90 awarded below = £958. She is awarded £500 for loss of statutory rights. No award was claimed for future loss.
 - c) The Employment Protection (Recoupment of Benefits) Regulations 1996 do not apply.
- 2) The Eighth Claimant suffered unauthorised deductions from wages in respect of arrears of wages owed to her by the First Respondent between 1st February and 22nd March 2017 in the sum of £3,910.14 less subsequent payment received from the First Respondent of £748.68 less payment received from the Insolvency Service of £2,671.62 = £489.84 net.
 - 3) The Eighth Claimant is entitled to damages in breach of contract from the First Respondent in respect of its failure to provide her with contractual notice of dismissal from 22nd March to the end of the Summer Term on 31st August 2017 in the sum of £12,017.90 less £958 received from the Insolvency Service = £11,059.90 net.
 - 4) The Eighth Claimant is entitled to a protective award payable by the First Respondent. A protective award is made against the First Respondent in respect of such of its former employees as it dismissed by reason of redundancy on or after 22nd March 2017. The protective award is for 90 days from 22nd March 2017 onwards. The amount of the Eighth Claimant's protective award is calculated as follows: £110.44 gross daily pay x 90 days = £9,939.60.
 - 5) The total award to the Eighth Claimant is £22,947.34.

Sophie Rule – the Ninth Claimant

- 1) These figures are based on gross weekly pay of £30.76, gross daily pay of £104.11, net weekly pay of £466.45 and net daily pay of £66.45.
- 2) The Ninth Claimant suffered unauthorised deductions from wages in respect of arrears of wages owed to her by the First Respondent between 1st February and 22nd March 2017 in the sum of £3,483.20 less subsequent payment received from the First Respondent of £667.03 less payment received from the Insolvency Service of £2,596.07 = £220.10.
- 3) The Ninth Claimant is entitled to damages in breach of contract from the First Respondent in respect of its failure to provide her with contractual notice of dismissal from 22nd March to the end of the Summer Term on 31st August

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2017 in the sum of £10,771 less earnings from further employment of £9,805.39 = £965.61.

- 4) The Ninth Claimant is entitled to a protective award payable by the First Respondent. A protective award is made against the First Respondent in respect of such of its former employees as it dismissed by reason of redundancy on or after 22nd March 2017. The protective award is for 90 days from 22nd March 2017 onwards. The amount of the Ninth Claimant's protective award is calculated as follows: £104.11 gross daily pay x 90 days = £9,369.90.
- 5) The total award to the **Ninth** Claimant is £10,555.61

Employment Judge Tsamados

Date 23rd October 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.