



## **EMPLOYMENT TRIBUNALS (SCOTLAND)**

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Case No: 4120659/2018 Hearing at Edinburgh on 11 March 2019

Employment Judge: M A Macleod (sitting alone)

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Kloe Burrow

Claimant  
In Person

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George Thomson

Respondent  
Not Present and  
Not Represented

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### **JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

The Judgment of the Employment Tribunal is that the claimant's claim of unfair dismissal, being withdrawn, is dismissed on the grounds that the Tribunal does not have jurisdiction to hear it; and that the claimant's claims for notice pay, holiday pay, 25 unpaid wages and discrimination on the grounds of age, being undefended, all succeed; and that the respondent is ordered to pay to the claimant the sum of **One Thousand and Sixty Eight Pounds (£1,068)**.

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### **REASONS**

1. The claimant presented a claim to the Employment Tribunal on 20 September 2018 in which she complained that the respondent had unfairly dismissed her, discriminated against her on the grounds of age, and unlawfully deprived 35 her of notice pay and holiday pay.
2. No response was submitted by the respondent.

3. A hearing was fixed to take place on 11 March 2019. The claimant attended and appeared on her own behalf, although she was accompanied by her mother.
4. The respondent did not appear nor was he represented.
- 5 5. The claimant gave evidence on her own account and presented some documents to assist the Tribunal in assessing the compensation due to her.
6. Based on the evidence given and the information provided, the Tribunal was able to find the following facts admitted or proved.

### **Findings in Fact**

- 10 7. The claimant, whose date of birth is 22 June 2000, commenced employment with the respondent as a shop assistant on 27 January 2017. Her employment was terminated with effect from 20 July 2018.
8. The claimant was not provided with a written statement of terms and conditions of employment by the respondent. Her pay was £6.00 per hour.
- 15 9. Although the respondent deducted the sum of £20 from the claimant's pay as a result of her having accepted a forged £20 note from a customer (due to the pen used to check notes being empty and therefore not working), that sum was repaid to the claimant by the respondent and is not outstanding.
- 20 10. In her final week of employment, the claimant worked a total of 12 hours and 30 minutes, and was paid £42. She was due £75. Accordingly, the respondent unlawfully deducted £33 from her final salary.
11. The claimant received no notice pay. Her employment was terminated with immediate effect on 20 July 2018. She claims 11 hours at £6 per hour, amounting to £66. This is an accurate amount claimed.
- 25 12. The claimant claims that she was due 4 weeks' holiday each year, and that she did not receive payment in respect of the leave accrued to the date of her dismissal. She presented a calculation to the Tribunal that her statutory entitlement (based on the working hours for the year to date in 2018 of 178

hours and 30 minutes) was 21 hours 33 minutes; having taken 10 hours of leave, she seeks payment in respect of the balance of 11 hours and 33 minutes for 2018. Her claim for payment in respect of 2017 was out of time, however. Accordingly, she is entitled to a payment of £69 in respect of  
5 outstanding annual leave.

13. Finally, the claimant seeks a payment in respect of injury to feelings due to the stress caused to her while at work and following her dismissal.

14. She produced two documents in support of this aspect of the claim. Firstly, she presented a letter from her GP, Dr Zaidi, dated 5 March 2019 (p25).  
10 Dr Zaidi described the claimant as having been seen by the practice on 23 August 2018 with anxiety, and in particular with eating difficulties caused by that anxiety. She was referred to a specialist to assess her swallow, and the report confirmed that a degree of anxiety concerning swallowing food was the problem. She also advised the practice that she was suffering from  
15 anxiety as a result of her issues at work, and that that anxiety resolved following the termination of her employment. Secondly, the claimant produced a report from the East Lothian Adult Speech & Language Therapy Team dated 15 October 2018 (p26), which confirmed that she had a normal swallow but that she had anxiety in relation to swallowing food. She reported  
20 to the team that she had suffered from anxiety in the past.

15. The claimant gave evidence to the effect that the way in which she was treated at work, when she considered that she was being unfairly criticised due to her age (she was 18 at the date of her dismissal), had an impact on her mental health and upon her eating. She described having broken down  
25 in tears while at school. She felt that she was constantly criticised by the respondent in a way which was different to the older staff employed in the shop.

16. I have concluded that the claimant's valuation of the injury to feelings award, of £900, is a legitimate valuation in all of the circumstances. It is plain that  
30 the anxiety from which the claimant suffered at the hands of the respondent contributed to the illness which caused her to be seen by her GP and, by

referral, to the Speech and Language Therapy team. I had no cause to doubt the claimant's truthfulness in her evidence before me, and accordingly I consider that £900 is the appropriate level at which to fix the injury to feelings award.

5 17. The claimant accepted at the outset of the hearing that she lacks the necessary qualifying service to permit her to bring a claim of unfair dismissal, and therefore confirmed that she did not wish to pursue this.

10 18. Accordingly, it is my conclusion that the claimant's claims succeed, and that the respondent is ordered to pay to her the total sum of **£1,068** in respect of the claims made.

Employment Judge: Murdo A Macleod

Date of Judgement: 25 March 2019

Entered in register: 25 March 2019

15 And copied to parties