



EMPLOYMENT TRIBUNALS

Claimant: Mrs M Tovey

Respondent: Melanie Starbuck

HELD AT: Sheffield **ON:** 22 May 2019

BEFORE: Employment Judge Shulman

REPRESENTATION:

Claimant: Mr N Tovey (husband)

Respondent: No attendance and no representation

JUDGMENT

The Judgment of the Tribunal is that the Respondent shall pay to the Claimant as compensation for unfair dismissal the sum of £8,583.00.

REASONS

1. Introduction

This is a remedy hearing following a finding that the Claimant was unfairly dismissed by the Respondent. As can be seen above the Respondent was not present nor was she represented. This was unfortunate as the Respondent is autistic. At earlier hearings the Respondent was represented by Mr A Starbuck, her father, but following various happenings Mr Starbuck did not represent the Respondent although he sat in the Tribunal as an observer during this hearing.

2. What remedy?

The Claimant opted at all times until today for the reinstatement of her job as a carer for the Respondent. At the hearing on 9 April 2019 the Tribunal made detailed directions so as to ensure as best it could that the Respondent was

represented by a properly authorised representative. As I have indicated no-one was present on behalf of the Respondent and certainly not a properly authorised representative. This gave the Claimant and the Tribunal a problem in that it is quite clear that the law requires for an order for reinstatement to be made that it is practicable to do so. The Tribunal only had such evidence from the Claimant and not from anyone representing the Respondent and it was clear, therefore, that there was going to be difficulty in making such an order today, although it was open to the Claimant to “have another go” by trying to bring a properly authorised representative to the Tribunal on a subsequent occasion. This the Claimant told the Tribunal she had already tried and although there was a statement on behalf of an employee of Sheffield City Council it did not touch on the question of practicability. Indeed, the author of the statement did not know the purpose of these proceedings. The Tribunal therefore gave time to the Claimant to consult with her husband as to whether or not it would be appropriate to continue with the application for reinstatement or, which is also her right, to pursue a monetary remedy. Following that consultation, the Claimant came back and stated that she no longer wished to pursue the remedy of reinstatement and that she wished to claim compensation.

3. Remedy

- 3.1. The Recoupment Regulations apply (see annexe explanation for their effect).
- 3.2. The Tribunal has awarded compensation payable by the Respondent to the Claimant for unfair dismissal as follows:
 - 3.2.1. Basic award. Gross week’s pay £200.14. Multiplied by 10 years’ service multiplied by the formula 1.5 - £3,002.10.
 - 3.2.2. Compensatory award. Net average weekly pay £194.36. Period for payment of compensatory award from date of dismissal - 21 November 2018 until 22 May 2019. There is no further compensation going forward because the Claimant has given evidence that she will get her job back with effect from 22 May 2019 on the same terms. She will receive the equivalent of 26 weeks and one day by way of compensatory award - £5,080.90.
 - 3.2.3. Loss of statutory industrial rights - £500.00.
 - 3.2.4. (i) Grand total - £8,583.00.
(ii) Prescribed element £5,080.90.
(iii) Period of prescribed element - 21 November 2018 to 22 May 2019.
(iv) Excess of (i) over (ii) £3,502.10.

Employment Judge Shulman

Date: 5 June 2019

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