



EMPLOYMENT TRIBUNALS

Claimant: Miss E Avery
Respondent: Cavity Dental Staff Agency Limited
HELD AT: Sheffield **ON:** 2, 3 and 4 July 2019
BEFORE: Employment Judge Little
Ms S D Sharma
Mr D W Fields

REPRESENTATION:

Claimant: In person (PSU volunteers in attendance)
Respondent: Mr J McCracken of Counsel (instructed by Heald Nickinson Solicitors)

JUDGMENT

The unanimous Judgment of the Tribunal is that:-

1. The complaint of disability discrimination by alleged failure to make reasonable adjustments fails.
2. The complaint of disability discrimination arising from disability also fails.
3. The claimant was unfairly dismissed and so her unfair dismissal complaint succeeds.
4. The award of compensation to the claimant is reduced by 50% to reflect the chance that the claimant would have been dismissed by reason of redundancy even if a fair procedure had been followed.
5. The claimant is not entitled to a basic award because she has already received a statutory redundancy payment.
6. The respondent will pay to the claimant forthwith the sum of £7248.62 as a compensatory award (calculated as per the schedule below).
7. The claimant is entitled to an additional award pursuant to Employment Act 2002 section 38 this being a minimum award of two week's pay. The respondent will pay the further sum of £961.54 to the claimant forthwith.

SCHEDULE

Compensatory Award Calculation

Immediate Loss

Loss runs from 18.12.18
(expiry of payment in lieu of notice) to 4.7.18

28 weeks x £391.94 (old net pay)	£10,974.32
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Less payments received from new employment

6 weeks at £318.45 = £1910.70

17 weeks at £339.63 = £5773.71
7684.41

£3,289.81

Less 50%	<u>£1,644.95</u>
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£1,644.95

Immediate Pension Loss

£350.10

Employer's contribution at 2% then 3% of gross pay
(Automatic Enrolment Scheme)

£175.05

Less 50%

£175.05

Expenses of seeking new employment – attending
Interview in Sheffield

£44.10

Less 50%

£22.05

£22.05

Loss of Statutory Rights

£350.00

Less 50%

£175.00

£175.00

Future Loss

26 weeks at £391.94 pw

£10,190.44

Less 50%

£5,095.22

Future Pension Loss

26 weeks at £10.49 pw

£272.74

Less 50%

£136.37

£136.37

Summary

Immediate loss	1664.95
Immediate pension loss	175.05
Expenses	22.05
Loss of statutory rights	175.00
Future loss	5095.22
Future pension loss	136.37

	7248.62

Employment Judge Little

Date 11th July 2019

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.

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.