



EMPLOYMENT TRIBUNALS

Claimant: Ms Dorota Posuniak

Respondent: Secret CS Ltd

Heard at: London South **On: 14 August 2019**

Before: Employment Judge Martin

Representation

Claimant: Mr Onyekwelu - Solicitor

Respondent: No response received, not in attendance

Interpreter: Ms B Monk

JUDGMENT

The judgment of the Tribunal is that:

1. The Claimant was unfairly dismissed by the Respondent
 - a. The Respondent shall pay the following compensation
 - i. £3,000 basic award
 - ii. £28,055 compensatory award
2. The Respondent failed to pay the Claimant 17 days holiday accrued and outstanding on termination of her employment and shall pay compensation to the Claimant of £1,275.

REASONS

1. By a claim form presented to the Tribunal on 17 March 2019 the Claimant made claims of unfair dismissal, breach of contract and breach of the Working Time Regulations. No response was received despite the papers being served on the Respondent's registered office address.
2. I heard evidence from the Claimant. The Respondent is a family business and at the time of the Claimant's employment was run by her and her husband. That relationship has since broken down. The Claimant's evidence is that in or about 31 October 2018 her husband changed the locks on the shop so she could not enter and told that she was no longer required.

She had set the company up with husband and started work on 13 October 2010.

3. During November the Claimant paid staff and after querying her employment status with her husband received her P 45 showing the effective date of termination being 30 November 2018. The Claimant accepts that this is the correct date. The Claimant was paid up to and including the date although her holiday pay was not paid.
4. The Claimant was given no warning or no reason why her employment was terminating and consequently I find that the Claimant was unfairly dismissed by the Respondent. The Claimant's monthly pay was £375 and accordingly she is entitled to a basic award of one week's pay for eight complete years worked of £3,000.
5. Since leaving the Respondents employment the Claimant has started a business online which started generating income in March 2019. The Claimant is currently earning between £250 and £350 per month. For expediency the Tribunal took the median figure of £300 per month as her current earnings.
6. The compensatory award has been calculated in three parts. The first from the effective date of termination of 30 November 2018 to 1 March 2019 when the Claimant began earning money of 13 weeks at £375 per week. This amount is £4875. The second part is her loss of earnings taking into account what she is currently earning from 1 March two 16 August 2018 namely 24 weeks at £305 per week totalling £7320. The final part is loss of earnings at £305 per week for one year after which time it is expected that the Claimant will be earning a similar amount to that she and with the Respondent.
7. The Claimant is entitled to statutory holiday (28 days including bank holidays) and states she took 11 days holiday leaving 17 days accrued at the effective date of termination. Her daily rate of pay was £75, and the Respondent shall pay £1275 to the Claimant for accrued holiday pay.
8. The Claimant requested compensation for injury to feelings under the Fixed Term Employee (Protection of Employment) Regulations 2002 however this was refused as a regulation specifically state the injury to feelings is not payable in the circumstances. In any event, the Claimant's evidence is that she was offered a fixed term contract but did not accept it and the Tribunal is not therefore satisfied that she was a fixed term employee.

Employment Judge Martin

Dated: 14 August 2019

