



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs A Falkowska – Tumiel

**Respondents:** (1) BM Jewels of London Ltd (in voluntary liquidation)  
(2) Studio 13 Jewellery Ltd  
(3) The Secretary of State for Business, Energy and  
Industrial Strategy

**Heard at:** London Central

**On:** 6 November 2019

**Before Judge:** Employment Judge A Isaacson

## Representation

**Claimant:** In person

**Second Respondent:** Mr T Hussain, Consultant

**Interpreter:** Ms M Harvis - Curzobyk

# JUDGMENT

The Judgment of the Tribunal is as follows:

1. All claims against the first and third respondents are dismissed.
2. The claimant's claim for wrongful dismissal succeeds. The second respondent is ordered to pay to the claimant the gross sum of £4675 (11 x £425).
3. The claimant's unauthorised deduction from wages claim succeeds. The second respondent is ordered to pay to the claimant £1514.95 for net wages for the month of March 2018 and £148.72 being a gross sum for unpaid pension contributions between May 2017 and March 2018 (£13.52 pm x 11).
4. The claimant's claim for two days' holiday pay succeeds. The second respondent is ordered to pay to the claimant the gross sum of £170 (daily rate £85 x 2).

5. **The Tribunal awards the claimant 4 weeks' pay for compensation for the second respondent's failure to provide a written statement of employment particulars. The second respondent is ordered to pay to the claimant the sum of £1700 (4 x 425).**
6. **The claimant's claim for unfair dismissal succeeds. The second respondent is ordered to pay to the claimant a basic award of £4887.50 (11.5 x £425).**
7. **The second respondent is ordered to pay to the claimant a compensatory award of a further week's net pay of £349.60. The second respondent is also ordered to pay to the claimant the sum of £212 to compensate her for her expenses incurred to travel to the Tribunal for the full hearing in September 2019 and this remedy hearing from Poland having moved there to live in August 2019.**
8. **The total amount the second respondent is ordered to pay to the claimant is £13,984.49.**

## REASONS

1. This was a remedy hearing following the full hearing heard on the 20 September 2019 and Judgment and reasons being sent to the parties on 26 September 2019.
2. Neither party provided documents or witness statements but the claimant had prepared a schedule of loss. The claimant was questioned under oath and the second respondent's representative had an opportunity to take instructions before cross examination.
3. It was established at the beginning of the hearing that the second respondent did not dispute the claimant's claims for notice pay, unauthorised deduction from wages and holiday pay and agreed the figures for these claims set out in her schedule of loss, including the figure claimed for a basic award.
4. What was in dispute was the amount claimed for a compensatory award, the costs she was claiming for travel, the amount of compensation to be awarded for failure to provide a written contract and the Tribunal also raised the question of compensation for loss of statutory rights.
5. The claimant informed the Tribunal under oath that after she was dismissed on 28 March 2018 she was asked to look after her sister in law's children from May 2018. She was offered a job at De Beers in June 2018 and confirmed to the Tribunal that if she had taken up the offer she probably would have started on the 1 July 2018 on a salary equivalent to what she was earning at the first respondent.
6. The claimant is now officially the foster carer of her sister in law's children and moved on 6 August 2019 to live in Poland with the children. The claimant told the Tribunal she had not looked for alternative work since her dismissal and had not taken up the job offer from De Beers because she was caring for the children.

7. The claimant showed to the Tribunal a confirmation of her return flights from Poland to attend the hearing today and confirmed the price was £106 and that her previous flights had been the same.
8. The second respondent did not dispute that the claimant did not receive a written contract but argued that she should only receive two weeks 'compensation. The claimant had claimed 3 weeks compensation in her schedule of loss but explained she had only claimed this following advice from the CAB.
9. The Tribunal concluded that the claimant was offered a job equivalent to her previous salary by De Beers in June 2018 and therefore could have mitigated her loss from the 1 July 2018. The fact that the claimant had, for family reasons, ended up looking after her sister in law's children did not mean that the second respondent should compensate her past the period when she had been offered an equivalent alternative role. Therefore, the amount of the compensatory award should be limited to the three months from dismissal at the end of March 2018 to 1 July 2018 when the claimant could have started another role. Since the claimant was awarded 11 weeks' notice pay the actual amount of the compensatory award is one week's net pay.
10. The Tribunal concluded that the claimant is entitled to be compensated for the costs she incurred in travelling from Poland to England for the two hearings. The claimant incurred the travel expenses because she had moved to Poland in the period from her dismissal to the hearing dates and was only travelling back because she had been unfairly dismissed and needed to attend to represent herself.
11. The Tribunal raised the issue of loss of statutory rights. However, since the claimant had admitted that she had not been looking for work since her dismissal and is now living in Poland, the Tribunal concluded that it would not be appropriate to award the claimant compensation for loss of statutory rights as she had not been or would not be looking to start a new job in England over the two-year period since her dismissal.
12. The amount awarded to the claimant is set out in the Judgment section above.

Employment Judge Isaacson

Date 6 November 2019

JUDGMENT & REASONS SENT TO THE PARTIES ON

07/11/2019

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FOR THE TRIBUNAL OFFICE