



EMPLOYMENT TRIBUNALS

Claimant: Ms J Stuart

Respondent: One World (UK) Ltd

Heard at: London South, Croydon **On:** 24 October 2019

Before: Employment Judge Tsamados

Representation

Claimant: Ms R Stuart, claimant's niece

Respondent: No response entered, did not attend

JUDGMENT ON REMEDY

The respondent is ordered to pay the claimant the total sum of £20,680.35 in compensation of her claim.

Background

1. This remedy hearing follows the Judgment of Employment Judge Andrews dated 1 March 2019 given under rule 21 of the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013, the respondent having failed to enter a response to the claimant's claim.
2. In that Judgment, the claimant was found to have been dismissed unfairly and in breach of contract in respect of her notice. Further it was found that the respondent had failed to pay the claimant her holiday pay and to provide her with a written statement of terms and conditions of employment. However, on further consideration of this latter complaint, more correctly, the claimant was seeking compensation for further to provide written reasons for dismissal as required by sections 92 and 93 of the Employment Rights Act 1996. I therefore correct this element of the Judgment of Employment Judge Andrews accordingly.

Compensation

3. I make the following awards of compensation in respect of each complaint.

Unfair dismissal

Basic Award

4. The claimant's effective date of termination ("EDT") is 7 March 2018. She was born on 3 December 1964 and was aged 53 and had 5 complete years of service with the respondent at the EDT. The relevant multiplier is 7.5 and her gross weekly pay was £468. She is therefore entitled to a Basic Award of £3,510

Compensatory Award

5. The compensatory award period is from 8 March 2018 (the day after the EDT) until 1 February 2019 (when the claimant's period of temporary employment ended).

6. Her net weekly earnings from the respondent were £379.59. She was part of the respondent's occupational pension scheme to which the respondent contributed 2% and she contributed 2.4% of gross earnings making a total of 4.4%. This amounts of £20.59 per week.

7. The claimant started her temporary employment on 14 March 2018 and this came to an end on 1 February 2019. Her net weekly earnings from that employment were £161.83.

8. Compensation for loss of earnings and pension loss is awarded from 8 March 2018 to 1 February 2019, a period of 47 weeks. This is calculated as follows: $£379.59 + £20.59 = £400.18 \times 47 = £18,808.46$.

9. From this figure is deducted the income which the claimant received from her further employment from 14 March 2018 to 1 February 2019, a period of 46 weeks. This is calculated as follows: $£161.83 \text{ net pw} \times 46 \text{ weeks} = £7,444.18$.

10. $£18,808.46 - £7,444.18 = \text{loss of earnings of } £11,364.28$

11. As compensation for loss of statutory rights I award the sum of £500.

12. It is quite clear that the respondent had very little regard to the ACAS Code of Practice 1: Discipline and Grievances Procedure. I therefore award an uplift in the compensatory award of the maximum of 25%. This is calculated as follows: $£11,364.28 + £500 \times 25\% = £2,966.07$.

13. The total compensatory award is therefore = £14,830.35.

14. The Employment Protections (Recoupment of Benefits) Regulations 1996 do not apply.

Wrongful dismissal

15. Compensation for wrongful dismissal is effectively included within the award of loss of earnings within the compensatory award for unfair dismissal (the first 5 weeks' loss of earnings representing damages for failure to provide the claimant with notice of termination of her employment).

Holiday pay

16. At the time of her dismissal, the claimant had accrued 12 days annual leave which she had not taken, comprising of 2 days from the leave year 2017 and 10 days from the leave years 2018. 12 days at the daily rate of gross pay of £93.60 = £1123.20. I award compensation in this sum.
17. In addition I award an additional 25% for failure to follow the ACAS Code of Practice. £1123.20 + 25% of £280.80 = £1404.

Failure to provide written reasons for dismissal

18. The respondent failed to provide the claimant with written reasons for her dismissal despite requests made at both the disciplinary and appeal hearings. I award compensation in the sum of £936 representing 2 weeks' gross pay.

Employment Judge Tsamados

Date 30 October 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.