

Case Nos: 3327967/2017
3328129/2017
3328130/2017
3328131/2017
3328132/2017



EMPLOYMENT TRIBUNALS

BETWEEN

Claimants

C1 – Mrs M Wilson
C2 – Mrs A MacCabee
C3 – Mrs J Cross
C4 – Mrs S Amos
C5 – Miss R Godfrey

and

Respondents

R1 – The Estate of Mrs Pamela Jenkins
(deceased) trading as Kincare
R2 – Apex Prime Care Limited

JUDGMENT

**Made under rule 60 and 64 of Schedule 1 to the Employment Tribunals
(Constitution and Rules of Procedure) Regulations 2013**

1st Claimant

1. The First Respondent has withdrawn those parts of paragraphs 4 and 6 of part 6.1 of the ET3 form relating to the First Claimant insofar as it is contended that there was a transfer of employment from the First Respondent to the Second Respondent.
2. The death of the First Respondent on 26th April 2017 constituted a termination of the employment of each Claimant and, consequently, a redundancy pursuant to section 136(5) of the Employment Rights Act 1996.
3. The employment of each Claimant by the First Respondent having automatically ended on 26th April 2017 as set out at paragraph 1 above, there was no transfer of employment of any of the Claimants pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006.
4. The First Respondent admits liability for the Claimant's unpaid wages, holiday pay and statutory redundancy pay.
5. In relation to Mary Wilson, the First Respondent is ordered to pay the following sums:

- (i) £2,474.22 in respect of unpaid wages;
- (ii) £81.86 in respect of 1 day of accrued but untaken and unpaid holiday;
and
- (iii) £2,189.34 in respect of a statutory redundancy payment calculated based on 18 x £121.63.

2nd, 3rd, 4th and 5th Claimants – By consent

- 6. The death of the First Respondent on 26th April 2017 constituted a termination of the employment of each Claimant and, consequently, a redundancy pursuant to section 136(5) of the Employment Rights Act 1996.
- 7. The employment of each Claimant by the First Respondent having automatically ended on 26th April 2017 as set out at paragraph 1 above, there was no transfer of employment of any of the Claimants pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006.
- 8. The First Respondent accordingly withdraws those parts of paragraph 5 of part 6.1 of the ET3 form relating to the Second to Fifth Claimants and paragraphs 4 and 6 of part 6.1 of the ET3 form relating to the First Claimant insofar as it is contended that there was a transfer of employment from the First Respondent to the Second Respondent.
- 9. The financial claims are agreed as follows:
 - a. In relation to the Second Claimant, Alison Maccabee, the First Respondent is ordered to pay the following sums:
 - (i) £4,171.24 in respect of unpaid wages;
 - (ii) £350.94 in respect of 4.8 days of accrued but untaken and unpaid holiday; and
 - (iii) £10,908 in respect of a statutory redundancy payment calculated based on 24 x £454.50.
 - b. In relation to the Third Claimant, Jennifer Cross, the First Respondent is ordered to pay the following sums:
 - (i) £1,255.38 in respect of unpaid wages;
 - (ii) Nil sums due in respect of accrued but untaken and unpaid holiday; and
 - (iii) £3,206.25 in respect of a statutory redundancy payment calculated based on 15 x £213.75.
 - c. In relation to the Fourth Claimant, Sharron Amos, the First Respondent is ordered to pay the following sums:

- (i) £1,370.95 in respect of unpaid wages;
 - (ii) £184.67 in respect of 4.8 days of accrued but untaken and unpaid holiday; and
 - (iii) Nil sums due in respect of a statutory redundancy payment for want of the requisite two years' qualifying service.
- d. In respect of the Fifth Claimant, Roxanne Godfrey, the First Respondent is ordered to pay the following sums:
- (i) £1,343.04 in respect of unpaid wages;
 - (ii) £68.44 in respect of 4.8 days of accrued but untaken and unpaid holiday; and
 - (iii) Nil sums due in respect of a statutory redundancy payment for want of the requisite two years' qualifying service.
10. The claims for notice pay by the Second, Third, Fourth and Fifth Claimant shall be dismissed (the First Claimant having made no such claim).
11. The parties shall each bear their own costs in these proceedings.
12. The hearing listed for 28th and 29th October 2019 be vacated.
13. All further proceedings be stayed save for the purposes of enforcement or otherwise carrying into effect the terms of this Order.

Public Access to Employment Tribunal Judgments

14. The parties are informed that all judgments and reasons for judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the Claimants and Respondents.

Employment Judge Vowles

Date: ...21 November 2019

Sent to the parties on:

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For the Tribunals Office