



# EMPLOYMENT TRIBUNALS

BETWEEN

**Claimant**

Mrs Roxanne Kelly

**Respondent**

AND Annette's Domiciliary Care Limited

## JUDGMENT OF THE EMPLOYMENT TRIBUNAL

**HELD AT** Bodmin

**ON**

18 December 2019

**EMPLOYMENT JUDGE** N J Roper

### Representation

**For the Claimant:** In person

**For the Respondent:** No Appearance Entered, Did Not Attend

### JUDGMENT ON REMEDY

**The Judgment of the Tribunal is that:**

- 1. The respondent is ordered pay the claimant damages for disability discrimination in the sum of £10,705.18 which consists of £10,000 for injury to feelings and interest in the sum of £705.18; and**
- 2. The respondent is ordered to pay the claimant compensation for breach of contract in respect of one week's notice pay in the sum of £504.00; and**
- 3. The respondent is ordered to pay the claimant £662.00 as compensation for unlawful deduction from wages; and**
- 4. The respondent is ordered to pay the claimant accrued but unpaid holiday pay in the sum of £1545.34.**

### REASONS

1. In this case the claimant Mrs Roxanne Kelly has the benefit of a judgment entered under Rule 21 dated 11 June 2019 and sent to the parties on 17 June 2019. This judgment deals with the remedy awarded pursuant to that initial judgment.
2. I have heard from the claimant. The respondent did not enter an appearance in response to this claim, and did not attend today. As at today's date, the respondent is still an active company.
3. Disability Discrimination: The claimant's dismissal was an act of disability discrimination. As a result of her dismissal the claimant suffered considerable hurt and upset, and claims injury to feelings of £10,000 which is towards the lower end of the middle Vento band. I

have considered Vento v West Yorkshire Police [2003] IRLR 102 CA; Da'Bell v NSPCC [2010] IRLR 19 EAT; Simmons v Castle [2012] EWCA Civ 1039; De Souza v Vinci Construction (UK) Ltd [2017] EWCA Civ 879; and the Presidential Guidance on awards for injury to feelings and psychiatric injury dated 5 September 2017. Given that the claimant needed to visit her GP and receive medication to deal with the considerable upset which her dismissal caused, I consider that the sum of £10,000 is an appropriate award for injury to feelings and I make that award.

4. The interest payable on discrimination awards is to be calculated in accordance with the Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996 ("the Interest Regulations"). Under regulation 2 the tribunal shall consider whether to award interest, and if it chooses to do so then under regulation 3 the interest is to be calculated as simple interest accruing from day to day. Under regulation 6 the interest on an award for injury to feelings is to be from the period beginning on the date of the act of discrimination complained of and ending on the day of calculation. All other sums are to be calculated for a period beginning with a mid-point date between the act of discrimination and ending on the day of calculation. Following the Employment Tribunals (Interest on Awards in Discrimination Cases) (Amendment) Regulations 2013 the rate of interest payable is 8%.
5. 322 days have elapsed between the claimant's dismissal and today's hearing. Interest at 8% on £10,000 is £800 per annum, or £2.19 per day. I award interest for 322 days which is £705.18.
6. Breach of Contract: the claimant was dismissed in breach of her contractual notice period of one week. She worked 56 hours per week at £9.00 per hour and I therefore award damages for breach of contract in the sum of £504.00.
7. Unlawful Deduction from Wages: As at the date of her dismissal the claimant had worked for 42 hours at £9.00 per hour which was unpaid, which is a sum of £378.00. In addition, the respondent had deducted the sum of £284.00 from the claimant's pay towards council tax owed by the claimant to Plymouth City Council, but did not pay this sum to the Council. This was therefore a further unlawful deduction of £284.00. The respondent is ordered to pay the claimant compensation in the sum of £662.00 in respect of these unlawful deductions.
8. Holiday Pay: Finally, the respondent is ordered to pay the claimant the sum of £1,545.34 in respect of unpaid holiday pay. The claimant worked 56 hours per week and her contractual arrangements were that any hours worked in excess of 30 hours per week attracted holiday to the value of 12.7% over the initial 30 hours. For her last 52 weeks her excess hours were 26 hours per week at £9.00 per hour, which is a total sum of £12,168.00. This holiday was earned but never paid and at 12.7% the unpaid holiday pay amounts to £1545.34.

\_\_\_\_\_  
Employment Judge N J Roper

Dated: 18 December 2019  
.....