



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

and

Respondent

Ms G Duku

Healthcare Homes Group Ltd

Held at: Watford

On: 19 December 2019

Before: Employment Judge Smail

Appearances

Claimant: Mr M Sprack (Counsel)

Respondent: Ms A Rokad (Counsel)

REASONS

1. On 19 December 2019 I ordered that the Respondent must pay the Claimant compensation as calculated below within 14 days of this Remedy Judgment being sent to the parties:

No.	Head of Loss	Amount £
1	Holiday Pay	3,204
2	Notice pay	3,358
3	Basic Award for unfair dismissal	5,038
4	Compensatory award for unfair dismissal accounting for a 60% Polkey reduction and a 15% ACAS uplift	
	(i) 28.07.18 to 14.01.19	5,543
	(ii) 15.02.19 to 10.8.20	7,272
5	GRAND TOTAL	£24,415

2. The Judgment was promulgated on 13 January 2020 and reasons were requested on 16 January 2020.

3. In the course of the hearing I was asked to rule on matters of principle only.
4. Counsel agreed the calculations that flowed from the rulings. I had no involvement in the actual calculations.
5. The awards for holiday pay, notice pay and basic award all flowed from the liability Judgment that was promulgated on 4 October 2019. On that occasion I had arrived at the 60% Polkey deduction.
6. The Claimant won the case because she was denied an appeal. That engaged the ACAS uplift. 15% was the proportionate figure. The Respondent had otherwise complied with the code but not in the important aspect of the appeal.
7. The main points of principle related to the approach to the duration of the compensatory award.
8. I ruled that the Respondent did not show that the Claimant failed to mitigate her loss between the date of dismissal 29 June 2018 and the date she was cleared by the NMC in December 2018. It would have been very difficult for the Claimant to find work even if she was fit to work pending ruling by the NMC as to her fitness to practice. So there was no failure to mitigate over that period.
9. I further ruled that the Respondent did not show that the Claimant should have obtained a better paid job than the bank work job she found with Simple Care. After all, the Respondent had insisted that the Claimant return to work on the bank with them. Given her age (63) and the events surrounding her loss of employment with the Respondent, this was reasonable.
10. It was further reasonable to project that to the Claimant's retirement date. Nothing was likely to change as to the Claimant's employability in the meantime.
11. The projection was all subject to the 60% Polkey reduction.
12. The Respondent did show that the Claimant should have obtained like work to the work she obtained earlier than when she did. She started that work on or about 14 May 2019. I ruled that it was reasonable for the Claimant to take 4 months from being cleared by the NMC before she found a job. Given her age and recent work history it would take time. She would not obtain a favourable reference from the Respondent,.
13. The Claimant went for a month to Ghana. I assume that is why Counsel have agreed to present the figures for 2 periods: 28/7/18 to 14/1/19 and 15/2/19 to 10/8/20, with a month's gap in between. The latter is the Claimant's projected retirement date. She has consistently accepted she would retire then, aged 65.

14. Having made those findings of principle, Counsel agreed the calculations.

Employment Judge Smail

South East Region

18 February 2020

Judgment sent to the parties on

18 February 2020