



# EMPLOYMENT TRIBUNALS

**SITTING AT:** ASHFORD  
**BEFORE:** EMPLOYMENT JUDGE MORTON

**BETWEEN:**

**Ms C Payne** **Claimant**

**AND**

**West Country Inns Limited** **Respondent**

**ON:** 17 February 2020

**Appearances:**

**For the Claimant:** Mr M Foster (Solicitor)

**For the Respondent:** No appearance

## JUDGMENT

### Employment Tribunals Rules of Procedure 2013 – Rule 21

1. The Claimant was at all material times an employee and not a self-employed contractor.
2. The Claimant's employment transferred to the Respondent on or around 30 August 2018 (the 'Transfer') in a transaction to which the Transfer of Undertakings (Protection of Employment) Regulations 2006 ('TUPE') applied. Pursuant to Regulation 4 TUPE the Transfer had the effect of transferring the Claimant to the Respondent on her existing terms and conditions of employment.
3. The Claimant succeeds in her claims of:
  - a. Automatic unfair dismissal;

- b. Pregnancy and maternity discrimination;
  - c. Breach of contract (underpaid wages and pay for the notice period);
  - d. Unlawful deduction from wages (underpaid wages and holiday pay);
  - e. Failure to give written particulars of employment.
4. The Claimant has taken adequate steps to mitigate her losses.
  5. The Claimant is entitled to the following sums in compensation:
    - a. £15,000 in respect of injury to feelings for pregnancy discrimination;
    - b. £970.90 in respect of 12 weeks loss of earnings at £80.91 per week from 1 September 2018 to 25 November 2018 (£80.91 being the difference between the Claimant's weekly earnings before and after the Transfer);
    - c. £7000 in respect of loss of past and future earnings from the date on which the Claimant's Maternity Allowance period ended (10 August 2019) to the date falling three months after the date of the hearing, giving credit for approximately £500 earned during this period;
    - d. £196.32 in respect of one week's notice at the Claimant's contractual rate of pay before the Transfer;
    - e. £236.19 in respect of accrued but unpaid holiday;
    - f. Four week's pay, amounting to £785.28, in respect of the failure to give her written particulars of employment.
  6. The total payable to the Claimant by the Respondent is therefore **£24,188.69**.
  7. The Claimant's application for costs is refused. Costs awards are intended to be compensatory, not punitive and it is not clear to me how the Respondent's failure to respond to the claim could have resulted in increased costs to the Claimant.

Employment Judge Morton

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Date: 17 February 2020

#### Notes

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.

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