



EMPLOYMENT TRIBUNALS

Claimant: Ms M Potocka
Respondent: Onico Ltd
At : London Central Employment Tribunal
Before: Employment Judge Adkin (sitting alone)

JUDGMENT

1. The Respondent has failed to file an ET3 Grounds of Resistance in this case.
2. Having considered the ET1, Employment Judge Adkin has decided that a determination of the claim can properly be made without a hearing.
3. The Judgment of the Tribunal, made under rule 21 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, is that the respondent unfairly dismissed the claimant, unlawfully failed to pay holiday pay to the claimant and failed to pay notice in breach of contract.

Compensation

4. The respondent is ordered to pay to the claimant **£86,340.54**.

REASONS

1. I find that the effective date of termination of the Claimant's employment with the Respondent was 31 August 2020.
2. The total figure set out above is comprised of the following:
 - a. Under the contract of employment the Claimant is entitled to three months' pay. In breach of contract she was not paid that sum. Based on monthly pay of £10,166.67, three months' pay is £30,501.01. This is however capped by article 10 of the Employment Tribunals Extension of Jurisdiction (England & Wales) Order 1994 at **£25,000**.

- b. The Basic award for unfair dismissal, based on 5 weeks, capped at £525 per week, 1.5 week's pay for each full year worked when 41 or older, the statutory redundancy payment is **£3,937.50**. (This is equivalent to a redundancy payment).
- c. The Claimant has not worked since 31 August 2019 and is unlikely to work, in my judgment, given the present Covid-19 pandemic, before 31 August 2020. It follows, based on an assumed net monthly pay of £6,241.32 that her compensatory award would be £74,895.84. She cannot double-recover where there is overlap with the notice pay. Net of the figure of £25,000 gives a figure of **£49,895.84**.
- d. The Claimant claims holiday pay for the period January-August 2019, in the sum of **£7,507.20**.

Employment Judge Adkin
Dated: 7 May 2020

Sent to the parties on:
11/05/2020.

For the Tribunal:

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