



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms C Smith

**Respondent:** JHD Hospitality Limited

## JUDGMENT ON RECONSIDERATION

The Judgment sent to the parties on 5 June 2020 is varied as follows:

1. The complaint that the Claimant was unfairly dismissed is struck out.
2. The claims of discrimination, unauthorised deduction from wages and breach of contract are not affected by this Judgment and will proceed to be heard.

## REASONS

1. By a claim form presented on 8 February 2020, the Claimant brought complaints of unfair dismissal, disability discrimination, sex discrimination, age discrimination, failure to pay notice pay, arrears of pay and for “other payments”. The Respondent resisted all claims.

2. The Claimant was employed by the Respondent from 12 November 2019 to 16 December 2019. The Claimant was informed by letter dated 18 February 2020 that the Tribunal was considering striking out the unfair dismissal claim as she did not have two completed years of service and, therefore, lacked jurisdiction to hear it. The Claimant did not present reasons opposing the strike out by the prescribed date.

3. The Judgment sent to the parties on 5 June 2020 stated that the claim was struck out. The reasons given related only to the unfair dismissal complaint. Upon review of the file, I am satisfied that the Judgment was sent in error. The correct Judgment should have made clear that only the unfair dismissal claim was struck out and that all other claims could proceed. The error was identified by Employment Judge Allen QC at a Preliminary Hearing for case management

held by telephone on 26 June 2020. I refer to paragraphs 4 to 6 of his Summary and can confirm that my Judgment sent on 5 June 2020 was indeed an error insofar as it had the effect of striking out all claims.

4. The Tribunal has reconsidered the Judgment as the parties were notified on 26 June 2020 that it would. I am satisfied that it is necessary in the interests of justice pursuant to Rule 70 of the Employment Tribunal Rules of Procedure 2013 that the Judgment be varied to make clear that it is only the complaint of unfair dismissal which is struck out. The remaining claims are not affected as they do not require two years' continuous service.

**Employment Judge Russell**  
**Date: 11 August 2020**