



# EMPLOYMENT TRIBUNALS

**Claimant:**

Mr A Keattch

v

**Respondent:**

Better Bathrooms (UK) Limited  
(in administration)

**Heard at:**

Reading

**On: 3 July 2020**

**Before:**

Employment Judge Hawksworth (sitting alone)

**Appearances**

**For the Claimant:** Mrs L Keattch (claimant's wife)

**For the Respondent:** No attendance or representation

## RESERVED JUDGMENT (REMEDY)

The claimant is awarded compensation for unfair dismissal in the sum of £6,622 made up of the following:

- 1.1. a basic award of £2,286; and
- 1.2. a compensatory award of £4,336.

## REASONS

### The claim, hearing and evidence

1. By a claim presented on 29 July 2018 the claimant brought complaints of unfair dismissal and disability discrimination. The respondent presented an ET3 (response form) on 4 September 2018 and defended the claim. A preliminary hearing took place on 14 January 2019 at which the issues in dispute were identified and case management orders made.
2. On 1 March 2019 the respondent company went into administration. On 21 August 2019 the administrator gave written consent for the claimant's claim to proceed.
3. A hearing took place on 3 July 2020 by video conference (CVP). The claimant attended and was represented by his wife. The respondent did not attend and was not represented.
4. The hearing was listed as a full merits hearing to decide the complaints. At the hearing, I explained to the claimant that, although an unfair dismissal

complaint can be heard by a judge sitting alone, a panel of three tribunal members is required to hear a disability discrimination complaint. The full merits hearing of his complaints would have to be rescheduled to another date with a full tribunal panel. The claimant decided to withdraw his complaints of disability discrimination as he preferred to have his complaint of unfair dismissal determined today rather than wait for another hearing.

5. I heard evidence from the claimant and Mrs Keattch, and closing comments from Mrs Keattch. I decided, for reasons given at the hearing, that the complaint of unfair dismissal succeeded. I heard evidence and closing comments on remedy issues, but there was insufficient time for me to give my remedy decision at the hearing.
6. The issue for decision in this judgment is what compensation for unfair dismissal the claimant is awarded.

### **Findings of fact**

7. I make the following findings of fact which are relevant to remedy.
8. The claimant was employed by the respondent as a store manager at Slough. He began working for the respondent on 2 February 2015. He was dismissed on 3 July 2018 (the meeting having been rearranged from the original date of 26 June 2018). I have found that his dismissal was unfair. The claimant accepted that he received pay in lieu of notice. Based on the information provided in the ET3 I find that the notice pay he received was two months' pay in lieu of notice.
9. At the time of his dismissal, the claimant was aged 49 and had 3 years' employment with the respondent. His gross basic annual salary was £28,000, and with commission his gross annual salary was £31,000. His monthly pay was £2,583 gross and £2,038 net. His weekly pay was £596 gross and £470.40 net.
10. After his dismissal the claimant began working for a new employer, UPS, in September 2018. He was still working in this job in March 2019, the date on which the respondent went into administration. His net monthly salary in his new job was £1,400.

### **The Law**

11. Section 118 of the Employment Rights Act 1996 says that compensation for unfair dismissal consists of:
  - a) A basic award; and
  - b) A compensatory award.
12. A basic award is 1.5 weeks' pay for each year of employment in which the employee was not below the age of 41 (section 119(2)(a)). A week's pay is subject to a statutory cap (a maximum amount). For dismissals which

occurred after April 2018 but before April 2019, the maximum amount of a week's pay is £508.

13. The amount of the compensatory award is such amount as the tribunal considers just and equitable in all the circumstances, having regard to the loss sustained by the claimant in consequence of the dismissal, in so far as that loss is attributable to action taken by the respondent (section 123(1)).
14. Compensation under section 123 of the Employment Rights Act 1996 cannot include awards in respect of non-financial loss such as injured feelings or loss of confidence (*Dunnachie v Kingston upon Hull City Council* [2004] IRLR 727). Loss is restricted to financial loss.

### Conclusions

15. I have first considered the basic award. As the claimant had 3 years' service and was aged 49 at the date of dismissal, he is entitled to a basic award of 4.5 x a week's pay. His gross weekly pay was £596, but at the time of dismissal, the maximum amount of a week's pay was £508. This gives a total basic award of  $4.5 \times £508 = £2,286$ .
16. I have next considered the compensatory award, and the financial losses sustained by the claimant as a result of the unfair dismissal.
17. During the period 3 July 2018 to 3 September 2018 the claimant received notice pay from the respondent. The claimant commenced new employment in September 2018. His new employment was paid at a net rate of £638 per month less than his employment with the respondent. From September 2018 he sustained losses of £638 per month as a result of the dismissal.
18. If the claimant had not been dismissed and had stayed working with the respondent, his employment would have ceased when the respondent went into administration on 1 March 2019. Even if there had been no unlawful treatment of the claimant, he would not have continued to receive salary after this date.
19. The claimant has suffered loss of salary for the period from 3 September 2018 to 1 March 2019, a period of 6 months. The loss of salary was the difference between his salary with the respondent and his salary with his new employer. This was £638 per month. The claimant's total net losses are  $6 \times £638 = £3,828$ . I also award £508 in respect of loss of statutory rights. This gives a total compensatory award of £4,336.
20. The award to the claimant is therefore:

Basic award	£2,286	
Compensatory award	£4,336	
<b>Total award</b>		<b>£6,622.00</b>

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**Employment Judge Hawksworth**

Date: 6 July 2020

Sent to the parties on: ....21/8/20.....

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For the Tribunals Office

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