



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr N Smith

**Respondent:** Linkway Distribution Services Limited

**Heard at:** Leeds Employment Tribunal (hybrid hearing)

**Before:** Employment Judge Deeley and Mr I Taylor (in person)  
Mr R Stead (attending via CVP)

**On:** 26 and 27 November 2020

**Representation**

**Claimant:** Mr N Smith (in person)

**Respondent:** Mr J Searle (Counsel)

## JUDGMENT

1. The claimant's claim for direct age discrimination under s13 of the Equality Act 2010 fails and is dismissed.
2. The claimant's claim for unfair dismissal under s98 of the Employment Rights Act 1998 succeeds. The amount of compensatory award for unfair dismissal is reduced to one week's pay, to reflect the possibility that he would have been fairly dismissed if the respondent had carried out a proper procedure.
3. The claimant's claims for breach of contract (wrongful dismissal/notice pay) succeeds.
4. The claimant's claims for unauthorised deductions from wages (holiday pay) under s13 of the Employment Rights Act 1996 succeeds.
5. The claimant's claim for failure to provide a written statement of employment particulars under s38 of the Employment Act 2003 succeeds and the claimant is awarded two weeks' pay (capped).
6. The respondent is ordered to pay compensation/damages to the claimant as follows:
  - 6.1 **Damages for breach of contract** (i.e. the balance of the claimant's notice pay)  
- £262 net;

- 6.2 **Basic award** – £ nil (the claimant has received his full statutory redundancy payment and is not entitled to any additional payments in respect of the basic award);
- 6.3 **Compensatory award** (adjusted for loss of earnings, sums earned in mitigation of loss and notice pay) - £ nil;
- 6.4 **Unpaid wages** (i.e. the balance of underpayments for the claimant's holiday pay from 29 November 2019 to 13 March 2020) - £469 gross; and
- 6.5 **Failure to provide written particulars of employment** - £1050.

**Employment Judge Deeley  
30 November 2020**

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