



EMPLOYMENT TRIBUNALS

BETWEEN
AND

Claimant
Ms C Conquer

Respondent
Jigsaw Earlsdon
Limited

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD AT Birmingham ON 9 November 2020

EMPLOYMENT JUDGE GASKELL

Representation

For the Claimant: Mr A Shellum (Counsel)
For Respondent: Ms S Carvell (Administrative Assistant)

JUDGMENT

The judgment of the tribunal is that:

- 1 The respondent's application for a postponement of this hearing is refused.
- 2 The claimant was unfairly dismissed by the respondent and is entitled to an award of compensation.
- 3 The claimant is awarded compensation for unfair dismissal, payable by the respondent in the sum of £22812.91 calculated as follows: -

Basis Award		£ 3750
Compensatory Award		
Loss of Earnings to date	£ 4478.08	
Future Loss of Earnings	£ 9416.68	
Pension Loss	£ 305.57	
Loss of Statutory Rights	£ 1000.00	
Expenses seeking new employment	£ 50.00	
Uplift Section 208A		
TULR(C)A 1992 @ 25%	£ 3812.58	
Total	£19062.91	£19062.91
Total Award for Unfair Dismissal		£22812.91

- 4 The claimants claim for unpaid wages

- is well-founded, and there is an award for the claimant payable by the respondent in the sum of **£ 6222.93 (net)**
- 5 The claimant's claim for unpaid holiday pay is well-founded and there is an award to the claimant payable by the respondent in the sum of **£ 650.00 (net)**
- 6 The claimant's claim pursuant to Section 11 of the Employment Relations Act 1999 is well-founded and there is an award to the claimant payable by the respondent @ 2 weeks-pay **£ 1000.00**
- TOTAL AWARD £30685.84**
- 7 The sums awarded at Paragraphs 4 and 5 above has been calculated net of income tax and national insurance contributions on the basis that upon payment thereof the respondent will make an appropriate and corresponding payment to HMRC.
- 8 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.

REASONS

- 9 I have been asked by the respondent to provide written reasons for my refusal to postpone the hearing.
- 10 This claim was commenced by a claim form presented to the tribunal on 3 January 2020. The claim form was served on the respondent at its registered office address by letter dated 9 January 2020. That letter informed the respondent that if it wished to defend the claim a response must be received at the tribunal office by no later than 6 February 2020.
- 11 When no response was received by that date, on 28 February 2020, the tribunal wrote to the respondent advising that pursuant to Rule 21 of the Employment Tribunals Rules of Procedure 2013 judgement may now be issued in favour of the claimant and that the respondent would not be permitted to participate in any Hearing other than to the extent allowed by the tribunal.
- 12 Nothing was heard from the respondent until an email from Mr Steve Carvell (a director of the respondent) received at 12:28pm on Friday 6 November

2020. In the email, Mr Carvell requests a postponement claiming that the respondent has only recently become aware of the proceedings and suggesting that the reason for this may be that the paperwork had been sent to premises which were closed because of the COVID-19 Pandemic. A second email was sent at 8:23am this morning: again requesting a postponement and explaining that the only person available to represent the respondent at today's hearing was at home in self-isolation.

13 In the event the respondent was represented at the outset of today's hearing by Ms Carvell - she is Mr Carvell's sister and is employed by the respondent as an administrative assistant. Ms Carvell made clear that she had only joined the videoconference for the purpose of requesting a postponement she had no authority to go any further. Ms Carvell explained that not only was her brother in self-isolation, he was actually feeling unwell; she was not in a position to provide any details of when his illness started nor was any medical evidence available. When the postponement was refused Ms Carvell left the Hearing.

14 I have regard to the relevant Presidential Guidance relating to postponements. In this case the crucial correspondence was sent to the respondent before the onset of the Pandemic and well before business and other premises went into lockdown. And yet, the respondent has adduced no evidence nor any explanation as to why the tribunal's letters of 9 January 2020 and 28 February 2020 should not have been received. Nor is there any explanation as to why more recent correspondence has been received prompting the respondent to seek a postponement on the last working day prior to the Hearing.

15 I sympathise with Ms Carvell's position in that she was unable to provide answers to these questions. But it seems to me that if Mr Carvell was in self-isolation at home, this did not prevent him from joining the videoconference himself to provide proper explanations. All in all, I was not satisfied that there was any proper basis for the postponement especially for a respondent who was in any event prohibited from participating in the Hearing. In my judgement, the interests of justice was such that the Hearing should proceed; and the claimant should be permitted to present her claim to the tribunal. Accordingly, the request for a postponement was refused.

Employment Judge Gaskell
9 November 2020
Judgment sent to Parties on
