



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant		Respondents
Ms L Munkley	and	R1- Future 4000 Limited (In CVL) R2 – The Ginger Dog Pub Company Limited R3 – Lovely Little Pubs Limited

Hearing held at Reading on: 2, 3, 4 February 2021

Appearances:

For the Claimant:	In person
For the 1st Respondent:	No appearance
For the 2nd Respondent:	Mr B Hendley, consultant
For the 3rd Respondent:	Mr H Dickson, Director

Employment Judge:	Vowles
Members:	Ms C Baggs Mr F Wright

UNANIMOUS JUDGMENT

Evidence

1. The hearing was conducted by CVP remote video link.
2. Tribunal heard evidence on oath and read documents provided by the parties and determined as follows.

Transfers under regulation 3 TUPE Regulations 2006

3. There were relevant transfers of an economic entity, namely the Fifield Inn, which retained its identity, as follows:
 - 2.1 From the 1st Respondent to the 2nd Respondent on 14 September 2018;
 - 2.2 From the 2nd Respondent to the 3rd Respondent on 7 January 2019.

Transfers under regulation 4 TUPE Regulations 2006

4. The Claimant's employment at the Fifield Inn transferred from the 1st Respondent to the 2nd Respondent on 14 September 2018.
5. The Claimant's employment at the Fifield Inn transferred from the 2nd Respondent to the 3rd Respondent on 7 January 2019.

Unfair Dismissal – section 98 Employment Rights Act 1996

6. The Claimant was dismissed on 19 January 2019 from her employment as an Assistant Manager. The dismissal was unfair. This complaint succeeds.

Redundancy Payment – section 135 Employment Rights Act 1996

7. The Claimant was entitled to a redundancy payment. This complaint succeeds.

Notice Pay – section 86 Employment Rights Act 1996

8. The Claimant was entitled to notice pay. This complaint succeeds.

Direct Sex Discrimination – section 13 Equality Act 2010

9. The Claimant was not subjected to sex discrimination. This complaint fails and is dismissed.

Direct Maternity Discrimination – section 18 Equality Act 2010

10. The Claimant was subjected to maternity discrimination. This complaint succeeds.

Unpaid Holiday Pay – regulation 30 Working Time Regulations 1998

11. The Claimant was owed holiday pay. This complaint succeeds.

Unpaid Wages – section 13 Employment Rights Act 1996

12. The Claimant was owed wages. This complaint succeeds.

Application for Preparation Time Order

13. The Claimant's application for a preparation time order against the 2nd Respondent was refused.

Table of Calculation of Compensation

14. **Unfair dismissal**

<u>Basic Award</u>	
3 weeks x £423.08	1,269.24
<u>Compensatory Award</u>	
Loss of Earnings 10 weeks x £343.75 (19 Jan 19 – 29 Mar 19)	3,437.50
Loss of Statutory Rights	400.00

15. **Redundancy Payment**

3 weeks x £423.08 – cancelled out by basic award above	000.00
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16.	Notice Pay	
	3 weeks x £343.75 – subsumed into loss of earnings above	000.00
17.	Maternity Discrimination	
	Injury to Feelings	2,500.00
	Interest at 8% for 2 years 5 Months (9 Sep 18 – 4 Feb 21 = 878 days)	481.09
	Increase of 25% for unreasonable failure to comply with the ACAS Grievance Code of Practice	625.00
18.	Unpaid Holiday Pay	
	Holiday pay accrued during maternity leave 31 days at £68.75	2,131.25
	Increase of 25% for unreasonable failure to comply with the ACAS Grievance Code of Practice	532.81
19.	Unpaid Wages	
	Underpayment of SMP (25 Nov 17 – 06 Jan 18)	364.75
	Last payment of SMP (Sep 18)	148.68
	Total Award	<u>£11,890.32</u>

20. **Recoupment**

The Claimant claimed benefits and the Employment Protection (Recoupment of Benefits) Regulations 1996 apply.

The monetary award is £11,890.32.

The amount of the prescribed element is £3,437.50.

The dates of the period to which the prescribed element is attributable is 19 Jan 19 – 29 Mar 19.

The amount by which the monetary award exceeds the prescribed element is £8,452.82.

The effect of the Regulations is that **payment of the prescribed element is stayed and should not be paid to the Claimant**, until the Secretary of State has served a recoupment notice on the employer in respect of benefits paid to the Claimant or has notified the employer in writing that he does not intend to

serve a recoupment notice.

Payment of Compensation

21. The 3rd Respondent is ordered to pay the sum of **£11,890.32** to the Claimant, subject to the stay regarding the prescribed element referred to above.

Reasons – rule 62 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013

22. Reasons for this judgment were given orally at the hearing. Written reasons will not be provided unless a written request is presented within 14 days of the date this judgment is sent to the parties.

Public Access to Employment Tribunal Judgments

23. The parties are informed that all judgments and reasons for judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the Claimant and the Respondents .

I confirm that this is the Judgment in the case of Ms L Munkley v Future 4000 Ltd, The Ginger Dog Pub Company Limited and Lovely Little Pubs Ltd case no. 3314142/2019 and that I have dated the Judgment and signed by electronic signature.

Employment Judge Vowles
Date: 4 February 2021

Sent to the parties on:

26 March 2021

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For the Tribunals Office