



THE EMPLOYMENT TRIBUNALS

Claimant: Miss O Grainger

Respondent: Golden Chef 2 Ltd

Heard at: Newcastle CFCTC (By CVP) **On:** 12 March 2021

Before: Employment Judge Newburn

Members:

Representation:

Claimant: In person

Respondent: No attendance

JUDGMENT

1. The Claimant's claim under Regulation 5 of the Part Time Worker (Prevention of Less Favourable Treatment) Regulations 2000 is dismissed upon withdrawal by the Claimant.
2. The Claimant's claim of wrongful dismissal (notice pay) is well founded and succeeds. The Respondent is ordered to pay the Claimant damages for breach of contract of **£438.19** (being £116.85 a week net x 3 = £350.55; uplifted by 25% under section 207A Trade Union and Labour Relations Act 1992 ['ACAS uplift']).
3. The Claimant's claim of automatic unfair dismissal for reasons relating to the National Minimum Wage contrary to Section 104A of the Employment Rights Act 1996 is well founded and succeeds. The Respondent is ordered to pay the Claimant **£1,695.76**, consisting of:
 - 3.1. A Basic Award of £175.28;
 - 3.2. A Compensatory Award of £1,520.48 (£1,216.38 uplifted by 25% by way of ACAS uplift).

4. The Claimant's claim under regulation 30 Working Time Regulations/section 23 Employment Rights Act 1996 in respect of the Claimant's holiday pay is well founded and succeeds. The Respondent is ordered to pay the Claimant the gross sum of **£2,616.51** (being £2,093.21 uplifted by 25% ACAS uplift). This is a gross award and the Claimant shall be liable to the Inland Revenue for any payments of tax and national insurance thereon.
5. The Claimant's claim of unlawful deduction of wages in respect of the Respondent's failure to pay National Minimum Wage is well founded and succeeds. The Respondent is ordered to pay the Claimant the gross sum of **£2,583.18** (this being £2,066.54 uplifted by 25% ACAS uplift). This is a gross award and the Claimant shall be liable to the Inland Revenue for any payments of tax and national insurance thereon.
6. The Respondent failed to give to the Claimant itemised pay statements in accordance with section 8 of the Employment Rights Act 1996. No award is made in respect of this claim, as the Claimant has received compensation for unlawful deduction of wages.
7. The Claimant is awarded **£467.40** this being 4 weeks gross pay pursuant to Section 38 of the Employment Act 2002.
8. This makes a total award of **£7,801.04**.
9. The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 do not apply to these awards.

Authorised by EMPLOYMENT JUDGE NEWBURN

**JUDGMENT SIGNED BY EMPLOYMENT
JUDGE ON 12 March 2021**

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the Claimant(s) and Respondent(s) in a case.

Format of the Hearing

The hearing was conducted by the parties attending by Cloud Video Platform. It was held in public in accordance with the Employment Tribunal Rules. It was conducted in that manner because a face to face hearing was not possible in light of the Government Guidance in connection with the coronavirus pandemic and it was in accordance with the overriding objective to do so