



THE EMPLOYMENT TRIBUNALS

Claimant: Ms C Willey

Respondent: Nicola Armstrong t/a Willow Tree Deli

CERTIFICATE OF CORRECTION

Employment Tribunals Rules of Procedure 2013

Under the provisions of Rule 69, the Judgment given orally to the parties on 5 March 2021 is corrected as set out in underscored type at paragraphs 4 and 6.

The reason for this amendment is that in calculating the Claimant's award for unauthorised deductions of wages in respect of her holiday pay at the hearing, the hourly rate of £8.71 had been used. However, the correct hourly rate should have been £8.21, this being £131.36 (the Claimant's weekly wage) divided by 16 (the Claimant's weekly hours).

Authorised by Employment Judge Newburn

Date: 12 March 2020

Important note to parties:

Any dates for the filing of appeals or reviews are not changed by this certificate of correction and corrected judgment. These time limits still run from the date of the original judgment, or original judgment with reasons, when appealing.



THE EMPLOYMENT TRIBUNALS

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Heard at: Newcastle CFCTC (By CVP) **On:** 5 March 2021

Before: Employment Judge Newburn

Members:

Representation:

Claimant: In person

Respondent: No attendance

JUDGMENT

1. The Claimant was dismissed on 23 March 2020 by reason of redundancy.
2. The Claimant's claim for a statutory redundancy payment succeeds and the Respondent is ordered to pay **£94.08** (£131.36 x 3 less £300 paid to the Claimant by the Respondent).
3. The Claimant's claim for breach of contract brought under the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994 succeeds in respect of the Claimant's claim for notice pay and the Respondent is ordered to pay the net sum of **£394.08** in respect of 3 weeks' notice.
4. The Claimant's claim for unlawful deduction from wages in respect of her holiday pay succeeds and the Respondent is ordered to pay the gross sum of **£414.61** this being 50.5 hours pay in lieu of untaken holiday; 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 for unfair dismissal is well founded. However, no compensation is due to the Claimant in respect of her unfair dismissal because:

- 5.1. The basic award is extinguished by the award for a redundancy payment.
- 5.2. No compensatory award is due as there was a 100% chance that the Claimant would have been dismissed had a fair redundancy procedure been followed. Accordingly, the compensatory award is reduced by 100% pursuant to the principles in Polkey v A E Dayton Service Limited 1988 ICR 142.
6. This makes a total award of **£902.77**.
7. The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 do not apply to these awards.

EMPLOYMENT JUDGE NEWBURN

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

**JUDGMENT SENT TO THE PARTIES ON
23 March 2021**

AND ENTERED IN THE REGISTER

**Miss K Featherstone
FOR THE TRIBUNAL**

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.