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EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4104690/2020

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Held by Cloud Video Platform (CVP) on 5 March 2021

Employment Judge: Ronald Mackay

Ms Nicola McGinness

**Claimant
(In Person)**

Core Plant Hire Ltd

**Respondent
Not Present
Not Represented**

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgment of the Tribunal is that the Claimant was unfairly dismissed and the Respondent is ordered to pay the Claimant the sum of **THREE THOUSAND SIX HUNDRED AND NINETY POUNDS (£3,690)** by way of compensation.

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REASONS

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1. The Claimant was employed by the Respondent as an Administrator. In her claim form, she described her termination date as being 8 June 2020. It is suggested in her last payslip, however, that she remained employed on notice until 23 July 2020. Either way, the Claimant accepted that she has received payment in respect of her five week notice entitlement.
2. At either time, she had five complete years' service and was 31 years old.

3. The claim is one of unfair dismissal. The Respondent has not defended the claim. Having failed to do so and having accordingly failed to advance any potentially fair reason for dismissal in accordance with Section 98(4) of the Employment Rights Act 1996 (“**ERA**”) (the burden of proof resting on the Respondent), the Tribunal found the dismissal to have been unfair.
4. The Tribunal then went on to consider the question of compensation.

Basic Award

5. The Claimant had gross weekly pay of £278. Her net pay was £230 per week. On termination of employment, she received certain payments including a sum described as a redundancy payment (“**the Redundancy Payment**”) from the Respondent.
6. Notwithstanding the characterisation of the Redundancy Payment, the Respondent having failed to establish that the dismissal was by reason of redundancy, the exclusion from entitlement to a basic award in Section 122(4) of ERA does not apply. The Claimant is, therefore, entitled to a basic award of £1,390 (being five weeks’ pay). The calculation is based on the Claimant’s having five years of service between the ages of 22 and 41.

Compensatory Award

7. The Claimant received payment in respect of her five weeks’ notice. The Redundancy Payment was £1,668.
8. With effect from July 2020, the Claimant chose to become self-employed as a photographer. Her earnings were in the order of £1,000 to £1,300 per month. She operated for approximately five months. Thereafter, lockdown restrictions have meant that she has been unable to perform her business.
9. The Claimant has not applied for any other employed position. As such, she has elected not to take further steps mitigate her losses.
10. The Claimant’s self-employment income being broadly equivalent to her income with the Respondent, there is no financial loss for the first five month

period. Having regard to the Claimant's failure to fully mitigate her losses, the Tribunal considered it appropriate to award compensation for a period of 10 weeks, representing 10 weeks of the Claimant's inability to pursue her business, reflecting also the receipt of the Redundancy Payment. 10 weeks' net pay amounts to £2,300 and is payable by way of compensatory award.

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Employment Judge: Ronald Mackay
Date of Judgement: 22 March 2021
Entered in register: 07 April 2021

15 and copied to parties