



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs Susan Masters

**Respondent:** Liberty Carers Limited (trading as “Caremark”)

**Heard at:** East London Hearing Centre

**On:** 15 April 2021

**Before:** Employment Judge Ross

**Members:** Mrs A Berry  
Mr P Quinn

**Representation**

**Claimant:** Ms P Mathur (Counsel)

**Respondent:** No Attendance

## REMEDY JUDGMENT

It is the unanimous judgment of the Employment Tribunal that: -

- 1. The Respondent shall pay the Claimant £4,278.45 assessed as follows:**
  - 1.1. Compensation for unfair dismissal of:**
    - 1.1.1. Compensatory award: £4,278.45**
      - (a) Prescribed element: £3,778.45;**
      - (b) Non-prescribed element: £500.**
- 2. The Recoupment provisions apply in respect of the prescribed period (from 8 November 2017 to 30 April 2018).**

# **REASONS**

1. In this case, the Reserved Judgment and Reasons on liability were promulgated on 30 December 2019. At that time, the Employment Tribunal hoped and expected that a remedy hearing would not be needed given the findings of fact and our conclusions. However, the parties were unable to agree the question of remedy and the case was listed today following case management directions being given on 23 April 2020. The delay after those directions were given was regrettable but was the product of the series of lockdowns due to the pandemic which led either directly or indirectly to a delay in listing this hearing for remedy.

2. Turning to the remedy hearing today, the Respondent did not attend and was not represented. The Respondent did not file any evidence or submissions. The Tribunal heard from the solicitor for the Claimant that attempts had been made to contact the Respondent on various occasions.

3. The issues for determination at this remedy hearing were agreed by counsel for the Claimant at the outset today. These were as follows:

3.1 How much part-time work would the Claimant have done from the date of dismissal until the end of April 2018?

3.2 What was the Claimant's net weekly pay?

3.3 What were the pension contributions of the employer and the employee?

3.4 What award for loss of statutory rights was just and equitable in the circumstances?

4. In respect of evidence, the Tribunal had a bundle of documents from pages 1 – 42 and a witness statement of the Claimant. The Claimant gave oral evidence on affirmation and confirmed the contents of the witness statement.

## **Findings of Fact**

5. The Tribunal accepted the Claimant's evidence and made the following findings of fact:

5.1 The Claimant accepted that her net contractual monthly take home pay was as stated in the ET3 which was £1,636.24.

5.2 The Claimant's net weekly pay was £377.59.

5.3 The employer pension contribution was 2% of gross pay. The employee pension contribution was 1.66% of gross pay. The Claimant's evidence on this was corroborated by the payslip at page 2.

5.4 The Claimant returned to work at the beginning of November 2017. She agreed with the Respondent that she would return to work 3 days per week for 2

months. The Claimant accepted in evidence that it was likely that the amount of part-time work that she would have done after the end of that two-month period until the end of April 2018 would have been 3 days per week. We found that it was likely that the Claimant would have worked 3 days per week over the whole of the 25 weeks from dismissal to the end of April 2018.

5.5 We found that the Claimant did not fail to mitigate her loss. There was no evidence that the Claimant had failed in that duty and the burden of proof lay on the Respondent on that issue if it was to be advanced at all, and as we have said, the Respondent filed no evidence or submissions.

## Conclusion

6. We took into account the schedule of loss submitted on behalf of the Claimant. It is not necessary to repeat it and our conclusions differ from it in various respects.

7. In respect of the basic award, it was not necessary to make any basic award because the Claimant accepted that she had received her statutory redundancy pay, evidenced by the payslip at page 2.

## Compensatory Award

### A. *Prescribed Period*

8. Section 1, the losses in the prescribed period from 8 November 2017 to 30 April 2018.

- (a) The Loss of Earnings – We assessed the loss of earnings as follows:  
£377.59 x 25 weeks x 60% = £5,663.85  
Less 5 weeks' notice pay of £2,307.65  
Total loss of earnings £3,356.20
- (b) The Loss of Pension Payments  
Employer Pension Contributions £9.23 per week  
Employee Pension Contributions £7.66 per week  
Total pension contributions £16.89 x 25 weeks = £422.25

Therefore, the total loss in the prescribed period was £3,778.45

9. We note in particular that although the schedule of loss deducts the Universal Credit received up to April 2018 from the compensatory award, this sum is subject to recoupment and is not deducted by the Tribunal. The schedule of loss is incorrect insofar as it subtracts the sum of £2,407.58 of Universal Credit payment from the compensatory award.

### B. *The Non-prescribed Element*

10. The only item under this heading was the loss of statutory rights. We assessed that loss at £500.

**Summary**

11. The total award is the total compensatory award which we assessed as £4,278.45

**Employment Judge Ross  
Date: 23 April 2021**