



EMPLOYMENT TRIBUNALS

Claimant

Ms J Kay

Respondent

Elixir Cosmetics Ltd

v

Heard at: Watford Employment Tribunal

On: 13 to 15 September 2021

Before: Employment Judge George (sitting alone, in person)

Appearances

For the Claimant: in person

For the Respondent: Mrs P Hall, consultant

JUDGMENT

1. The claim of automatic unfair dismissal because of whistleblowing fails and is dismissed.
2. The claimant's employment with the respondent started on 2 January 2017.
3. The claimant's employment with Care Dental Ltd did count as a period of employment with the respondent and her continuous employment with the respondent started on 23 June 2003.
4. The claimant was unfairly dismissed.
5. The claimant was not wrongfully dismissed and is not entitled to a notice payment.
6. The respondent shall pay to the claimant compensation for unfair dismissal of **£3,616.48** calculated as set out in the following table.
7. The reason why this differs from and supersedes the amount of compensation ordered in the oral judgment is that the order of deductions provided for in s.124A of the Employment Rights Act 1996 (ERA) and s.207A(5) of the Trade Union and Labour Relations (Consolidation) Act 1992 affects the arithmetic.

Basic Award

5 X £498.67	2493.35	
10 X 1.5 X £498.67	7480.05	
	9973.40	
LESS 75% for conduct s.122(2)	(7,480.05)	
	<u>2493.35</u>	2493.35

Compensatory AwardPrescribed Element

4 weeks @ £374.57 (incl. pension loss but net of tax and NI) p.w.	1498.28	
25% uplift for s.207A TULR(C)A	374.57	
Subtotal	1872.85	
s.124A ERA 75% deduction for conduct s.123(6) ERA	(1404.64)	
Subtotal (Prescribed Element)	<u>468.21</u>	468.21

Non-Prescribed Element

Loss of statutory rights	500	
25% uplift for s.207A TULR(C)A (see s.207A(5) for order of increments)	125	
s.38 EA 2002 4 weeks @ £498.67	1,994.68	
Subtotal	2,619.68	
s.124A ERA: 75% deduction for conduct s.123(6)	(1,964.76)	
Subtotal (non-prescribed element)	<u>654.92</u>	654.92
Total Award		<u>3,616.48</u>

8. The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 apply. The prescribed element is £468.21 and the prescribed period is 26 September 2018 to 24 October 2018.

I confirm that this is my Judgment in case number 3335425/2018 and that I have approved the Judgment for promulgation.

Employment Judge George

Date: ...22 September 2021

Sent to the parties on: .27 Sept 2021...

.....THY.....
For the Tribunal Office

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.