



EMPLOYMENT TRIBUNALS

Claimant: H Pawley
Respondents: (1) Hanley's Restaurant Limited
(2) S Hanley

AT A HEARING

Heard at: Leeds by CVP video conferencing **On:** 29th September 2021
Before: Employment Judge Lancaster

Representation

Claimant: D Vulliamy, Citizens' Advice – Hull and East Riding
Respondents: Responses struck out and did not attend

JUDGMENT

1. The written statement of terms and conditions is amended pursuant to section 12 (2) of the Employment Rights Act 1996 so that the normal contractual hours are to read 42 rather than 20.
2. The First Respondent has made a series of unauthorised deductions from the Claimant's wages in that all cash payments up to and including 20th November 2019 were calculated at £70.00 per daily shift, when the average hours actually worked were 8.91 (9.24 less 0.33 (20 minutes) break) which at the National Minimum wage then in force entitled the Claimant to be paid £73.15 per shift.
3. The First Respondent is therefore ordered to pay compensation to the Claimant for 18 weeks at a shortfall of £15.76 per week, namely £283.68 gross.
4. It is declared pursuant to section 12 (3) of the Employment Rights Act 1996 that the First Respondent has failed to give the Claimant any pay statements in accordance with section 8 of that Act at the time at which wages were paid to her.
5. The Claimant was dismissed without notice on 19th November 2019, which is within 2 weeks of the end of her ectopic pregnancy, and therefore within the protected period for the purposes of section 18 of the Equality Act 2010.
6. That dismissal effected by the Second Respondent as agent for the First Respondent was unfavourable treatment of the Claimant because of illness suffered by her as a result of pregnancy and was therefore an act of discrimination under section 18 (2) (b) of the Equality Act 2010.

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7. The dismissal was also, as against the first Respondent, automatically unfair because it was for a reason connected with the pregnancy of the employee.
8. The First Respondent in breach of contract failed to pay the Claimant for the one week's notice of termination of employment to which she was entitled.
9. The First and Second Respondents are jointly and severally liable to pay compensation to the Claimant flowing from the discriminatory dismissal, calculated as follows (and amended from the decision announced orally so as to correct errors of omission).

(1)	1 weeks gross pay in lieu of notice	£365.76
(2)	3 further weeks at statutory sick pay rate	£282.75
(3)	4 further weeks at net full pay	£1,273.84
	(assessed at £16,58 60 on a gross salary of £19,019.52)	

(This is because had the Claimant not also been discriminatorily dismissed she would, on the balance of probabilities, have been signed fit to return to work 4 weeks earlier than she in fact was)

(4)	less £699.68 received in benefits, sub-total	<u>£1,222.67</u>
(5)	10 further weeks up to the commencement of lockdown in 2020 less average earnings in alternative employment, at a shortfall of £178.46 net per week	£1784.60
(6)	Sub-total	<u>£3,007.27</u>
(7)	Interest at 8 per cent per annum for a period of 340 days (the mid point between 19 th November 2019 and the date of hearing)	£224.10
(8)	Injury to feelings	£12,000.00
(9)	Interest at 8 per cent per annum from 19 th November 2019 to the date of hearing	£1,785.86
(10)	Total	<u>£17,017.23</u>

10. No further compensation or damages are awarded in respect of the unfair dismissal or breach of contract.
11. The claim for accrued holiday pay at the date of termination of employment is dismissed, as are any further complaints not otherwise expressly covered by this judgment.

EMPLOYMENT JUDGE LANCASTER

DATE 29th September 2021

Note

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

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