



EMPLOYMENT TRIBUNALS

Claimants: (1) Miss K Knott
(2) Miss C Hall
(3) Miss S Small
(4) Mr W Small
(5) Mr J Knott

Respondent: Mr K A Overal
Executor of Ms V France, deceased

Heard at: Bristol On: 22 October 2021

Before: Judge B Clarke
President of Employment Tribunals (England & Wales)

Representation:

Claimants: Miss Knott (first claimant)
Respondent: Ms S Morgan (consultant)

This hearing was held by video with the consent of all parties. Efforts to conduct the proceedings on the HMCTS Video Hearings platform were unsuccessful, so the hearing was moved to the HMCTS Cloud Video Platform.

JUDGMENT

1. All five claimants were dismissed by reason of redundancy on 6 August 2020, not the date of 21 July 2020 contended for by the respondent. For the purposes of calculating unpaid wages and holiday pay, the effective date of termination for each claimant is therefore 6 August 2020.
2. Section 97(2) of the Employment Rights Act 1996 extends the effective date of termination in Mr Knott's case by one week (to 13 August 2020) for the limited purpose of determining whether he qualifies for the right to complain of unfair dismissal. He does so qualify.

3. All five claimants were unfairly dismissed. However, no basic award (except for Mr Knott) or compensatory award is payable.
4. Mr Knott is entitled to payment in the sum of £78.89, whether it is described as a basic award for unfair dismissal or as a statutory redundancy payment.
5. Having regard to their entitlement to be paid to 6 August 2020, but taking account of overpayments in respect of accrued but untaken holiday, the claimants are also entitled to the following gross sums:

Miss Knott – £32.05

Miss Hall – £359.59

Miss Small – zero

Mr Small – £9.24

Mr Knott – £7.08

6. The claimants did not contest the calculations at paragraph 5 above, which were provided by Ms Morgan and explained during the hearing. I record Ms Morgan's agreement to send her calculations to the tribunal, with a copy to the claimants. She should do so with seven days.

Postscript

Having given judgment on all matters of liability and remedy, I asked the parties – as is my practice where at least one of them is not legally represented – whether there were any matters on which they sought clarification. Miss Knott raised two matters. For completeness, I record them and what I said in response.

- (1) She contended that Mr Knott was entitled to a further week's notice pay by reason of my finding that he had accrued two years' service for unfair dismissal purposes. I explained that (a) the effective date of termination was extended to 13 August 2020 for the limited purposes of calculating his qualifying period for unfair dismissal, not for other purposes, and (b) in any event, I could not go behind the judgment sent to the parties on 27 April 2021 by which all claims for breach of contract in respect of notice pay were dismissed upon withdrawal. No such sum was payable.
- (2) Second, she contended that the tribunal should order a compensatory award for unfair dismissal on the basis that the claimants could have been retrained to provide palliative care to Ms France before she died. That issue had not been raised by the claimants in their ET1 claim form, in any of their witness statements, in questioning of Mr Overal during his oral evidence, or

in submissions before I gave judgment. As I had now given judgment, I was unwilling to reopen further consideration of the matter.

Judge B Clarke
Date: 22 October 2021

Judgment sent to the parties: 16 November 2021

For the Tribunal Office

NOTE:

This is a written record of the tribunal's decision. Reasons for this decision were given orally at the hearing. Written reasons are not provided unless (a) a party asks for them at the hearing itself or (b) a party makes a written request for them within 14 days of the date on which this written record is sent to the parties. This information is provided in compliance with Rule 62(3) of the Employment Tribunal Rules of Procedure 2013.