



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4116438/2018

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Held in Glasgow on 30 November & 14 December 2018

Employment Judge Shona MacLean

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Miss M Ibrahim

Claimant
Represented by:
Mr Mullen
Solicitor

Securitas Security Services (UK) Limited

Respondent
No appearance and
not represented

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The judgment of the Employment Tribunal is that:

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(1) on the claimant's application it is necessary in the interest of justice to reconsider the judgment dated 8 October 2018 and sent to the parties on 8 October 2018 (the original decision); and on reconsideration the original decision is varied by deleting reference to complaints of breach of contract and failure to supply written terms and conditions and substituting that the complaint under Regulation 15 of the Transfer of Undertakings (Protection of Employment) Regulations 2006 is well founded.

(2) The respondent shall pay to the claimant a monetary award of FIVE THOUSAND SIX HUNDRED AND NINE POUNDS AND FORTY FIVE PENCE (£5,609.45) as compensation for unfair dismissal. The Employment

E.T. Z4 (WR)

Protection (Recruitment of Jobseekers Allowance and Income Support) Regulations 1996 do not apply.

- 5 (3) The respondent shall pay the claimant TWO THOUSAND FOUR HUNDRED AND NINETY SIX POUNDS (£2,496) being 13 weeks' gross pay as compensation for failing to inform and consult under the Transfer of Undertakings (Protection of Employment) Regulations 2006.

REASONS

- 10 1. On 8 October 2018 in accordance with Rule 21 of the Rules to be found in Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 Employment Judge Gall issued a judgment that the claimant's complaints of unfair dismissal, breach of contract and failure to supply a statement of employment particulars succeed (the original decision). The remedy was to be determined at a hearing on 30 November 2018.
- 15 2. I conducted the hearing on 30 November 2018 at which the claimant was present. Mr Mullen represented her. There was no attendance by or for the respondent.
- 20 3. I was satisfied that in the claim form there were no complaints of breach of contract and failure to supply written terms and conditions. There was a complaint under Regulation 15 of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) which was on the available material well founded.
- 25 4. The hearing was continued until 14 December 2018 to allow the claimant to apply for reconsideration and to clarify her schedule of loss. The claimant did so in an email sent on 12 December 2018 which was copied to the respondent.
5. As it was not practicable for Employment Judge Gall to consider the application for reconsideration, the Vice President appointed me to do so. In the circumstances and in the absence of any comments or objections from the respondent I proceeded to deal with the issues on paper.

6. In the interest of justice, it was appropriate for me to vary the original decision by deleting reference to complaints of breach of contract and failure to supply written terms and conditions and substituting that the complaint under Regulation 15 of the TUPE is well founded.
- 5 7. I then went onto consider the remedy to be awarded.
8. In relation to the unfair dismissal complaint, at termination the claimant was 32 years of age. She was continuously employed for 10 years. She earned £192.72 gross per week. Her net weekly wage was £189.03.
9. I calculated the basic award at ten weeks' pay at £192.72, that is £1,927.20.
- 10 10. Turning to the compensatory award, the claimant's loss of wages from termination to the date of the hearing was 28 weeks' pay at £189.03, that is £5,292. I added to this £300 for loss of statutory rights giving a total of £5,592. From this total I deducted salary received from her new employment of £1,909.75 leaving a compensatory award of £3,682.25.
- 15 11. The claimant was not in receipt of any benefits so the Employment Protection (Recruitment of Jobseekers Allowance and Income Support) Regulations 1996 do not apply. The total monetary award is £5,609.45 (£1,927.20 plus £3,682.25).
12. Turning to the Regulation 15 complaint, I was satisfied that the maximum
20 figure should be awarded: 13 weeks' gross pay, that is £2,496.
13. This was based on the length of time during which the respondent was aware of the cessation of the contract on which the claimant's employment depended. The respondent knew in December 2017 that the claimant's employment would come to an end but there was no consultation before she
25 was dismissed on 17 May 2018. There was a complete and deliberate failure to consult.

14. The respondent has provided no mitigating circumstances justifying any reduction in the award.

Employment Judge: S Maclean
Date of Judgment: 14 December 2018
Entered in register: 18 December 2018
and copied to parties