



**EMPLOYMENT TRIBUNALS (SCOTLAND)**

**Case No: 4100027/17**

**Employment Judge: Ian McPherson**

**Mrs Maria Collins**

**Claimant**

**Dr Akhand Chowdry**

**Respondent**

**JUDGMENT**

**Rule 21 of the Employment Tribunal Rules of Procedure 2013**

No response has been presented to this claim and an Employment Judge has decided to issue the following judgment on the available material under **rule 21**:

- (1) The judgment of the Employment Tribunal is that the claimant's complaints of (a) unfair dismissal; and (b) failure to pay holiday pay, both succeed.
- (2) The remedy to which the claimant is entitled in respect of her successful complaint of unfair dismissal will be determined at a hearing.
- (3) The case management Preliminary Hearing listed for Friday, 10 March 2017 at 10.00am, for one hour, is cancelled and a Remedy Hearing,

estimated duration 3 **hours**, will be assigned on a date to be hereinafter fixed in the listing period **April or May 2017**.

- (4) The respondent, not having lodged an ET3 response resisting the claim, will only be allowed to participate in that Remedy Hearing to the extent that might be permitted by the Employment Judge presiding at that Remedy Hearing.
- (5) The respondent has failed to pay the claimant's holiday entitlement and is ordered to pay the claimant the sum of **FOUR HUNDRED AND SIXTY FIVE POUNDS, NINETY TWO PENCE (£465.92)**. This represents payment in respect of 16 days leave accrued but not taken at time of termination of employment.
- (6) The respondent is ordered to pay to the claimant the Tribunal fee of **TWO HUNDRED AND FIFTY POUNDS (£250)** by way of expenses under **rule 75(1) (b)** to reimburse her for the Tribunal fee paid by the claimant to bring her claim.
- (7) The respondent's liability (if any) to pay the hearing fee to be paid by the claimant for the Remedy Hearing will be determined by the Employment Judge presiding at that Remedy Hearing.

### REASONS

1. A copy of the claim form setting out the claimant's complaints was sent to the respondent on 12 January 2017.
2. In accordance with the terms of **Rule 16 of the Rules to be found in Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013** the respondent was required to enter a response within twenty eight days of the date on which a copy of the claim was sent to him but he failed to do so.
3. The Employment Judge decided that on the available material a determination could properly be made without a hearing as to the liability of the respondents for the claim.
4. The remedy to which the claimant is entitled for the successful claim of unfair dismissal will be determined by an Employment Judge at a hearing, as the Tribunal will require to hear evidence from the claimant in respect of the sums sought for compensation for unfair dismissal, being basic award of £3,712.99, compensatory award of £10,567, and compensation of £7,500 for injury to hurt feelings, all as sought by the claimant in the schedule of loss intimated to the Tribunal by her solicitor on 15 February 2017, in response to the Tribunal's letter dated 10 February 2017, requiring further information to be provided, as there

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was insufficient information set forth in the ET1 claim form to issue a **Rule 21** judgment at that stage.

6. Following receipt of that schedule of loss, with additional information from the claimant, the Employment Judge decided that, on the basis of the available material, he could properly determine remedy as per the sums awarded in this judgment for unpaid holiday pay, and ET outlays.
7. That schedule of loss for the claimant not having been intimated to the respondent, the Employment Judge instructs the clerk to the Tribunal to intimate a copy of that schedule of loss to the respondent, when issuing this judgment to both parties.

Employment Judge: Ian McPherson

Date of Judgment: 01 March 2017

Entered in register: 03 March 2017

and copied to parties

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2. 1995

3.