



## EMPLOYMENT TRIBUNALS (SCOTLAND)

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Case No: 4111181/2021

Held on 7, 8 February and 8 April 2022 by Cloud Video Platform (CVP)

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Employment Judge Smith  
Tribunal Member Mr G Brewer  
Tribunal Member Mrs P Fallow

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Miss C Hurrell

Claimant  
Represented by:  
Mr J Lawson,  
Solicitor

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Townshend Bars Limited

Respondent  
No attendance or  
representation

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## REASONS

### Request for written reasons

1. An oral judgment on remedy issues, together with reasons, was delivered at the conclusion of the full hearing which concluded on 8 April 2022. Written reasons for the Tribunal's judgment were requested by the claimant's representative via email on 14 April 2022. These fuller written reasons have been promulgated pursuant to that request and the parties' right to written reasons as stipulated by **r.62(3)** of the **Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, sch.1.**

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E.T. Z4 (WR)

## **Introduction**

2. The following paragraphs set out our findings in fact, and our conclusions. The Tribunal's judgment was unanimous in every respect. We heard evidence from the claimant only and were directed to various documents during the course of that evidence, including payslips and correspondence relating to her current employment.

## **Wrongful Dismissal**

3. We have found that the claimant was wrongfully dismissed and we find that the claimant was entitled to one week's notice of the termination of her employment. We find that her net weekly pay with the respondent was £460. Damages have been assessed and awarded in the sum of £460.

## **Compensation for unlawful discrimination**

4. We now turn to compensation for discrimination, the sole discriminatory act being the claimant's dismissal on 8 August 2021.

## **Past losses**

### *Past financial losses*

5. For the first 10 weeks after her dismissal the claimant received no earned income. Her loss for that period was therefore 10 x £460 (her weekly net pay), but credit must be given for the one week's notice pay award for wrongful dismissal, as detailed above. The claimant cannot doubly recover. Her loss for that nine-week additional period was therefore £4,140.
6. On 18 October 2021 the claimant obtained a new job as assistant manager at the Hunter S. Thompson pub in Dundee. Her net weekly pay in that role was, we find, £240.33. That left a shortfall between her previous earnings with the respondent of £219.57 per week. She worked in that role for a period of 16 weeks, incurring a loss of 16 x £219.57. The claimant's loss for that period was therefore £3,513.12.
7. On 7 February 2022 the claimant was promoted at the Hunter S. Thompson and became bar manager. Her rate of pay was increased and

her normal take-home pay was £347.68 per week. She continues to work in that role as at today's date. The shortfall between that weekly amount and her pay with the respondent is £112.32 per week. She has as at today's date worked eight weeks and four days in that role. Taking that time into account, her loss for that eight-week, four-day period has therefore been £962.58.

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8. The total of those losses amounts to £10,075.86, but credit must be given for sums received. In this regard we credit £90 received by the claimant for carrying out cleaning work on 22 February 2022, £110 in overtime earned in the week of 25 February 2022, and Universal Credit in the amount of £1,583.43.

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9. The total past loss suffered by the claimant as a result of her discriminatory dismissal is £8,257.27. As per our discretion, we have decided to award interest on this sum. Interest is awarded at the rate of 8% over 243 days (the time between the dismissal and today's hearing), in the sum of £439.95.

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10. The overall award for past financial losses inclusive of interest is therefore £8,697.22.

#### *Injury to feelings*

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11. On the matter of injury to feelings, we accepted the claimant's evidence and made findings accordingly. Her evidence was:

*"I was completely embarrassed. I was in shock. It [meaning the dismissal] was also in front of customers. You can imagine the shock and embarrassment of having to tell my family, who were extremely proud of me. It was hard to pick up the phone to call them. It was not nice at all. It totally knocked my confidence. Even in the new job it has made me doubt my abilities in hospitality management.*

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*I phoned my Mum two or three hours after the meeting. I felt dreadful and I phoned my mum in a fit of tears. She knew straightaway that something was wrong and I told her I'd been*

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*dismissed. It was hard to get the words out, I was so distraught, taken aback and shocked.”*

12. The claimant was dismissed and we have found that it was an act of unlawful age discrimination. We have taken account of the bandings provided for injury to feelings awards since the case of **Vento v Chief Constable of West Yorkshire Police [2003] IRLR 102** (as updated from time to time) in the form in which they apply to the time of this case. We find, however, that this was not a case which merited a middle band award but certainly did merit an award towards the top end of the lower band applicable to cases presented when this one was.
13. We have decided to award £8,000 as compensation for injury to feelings, and again exercise our discretion to award interest over the same period and at the same rate. The interest on the injury to feelings award amounts to £426.24.
14. The total injury to feelings award inclusive of interest is £8,426.24.

*Total past losses*

15. The total award of compensation for past losses, inclusive of interest, is therefore £17,123.46.

**Future losses**

16. In evidence the claimant told us – and we accepted – that she is highly likely to benefit from a pay rise sometime in the middle of the summer of this year (2022) and that at that stage she will earn either the same rate of pay or more than what she enjoyed whilst working for the respondent.
17. Whilst there is always a degree of speculation involved when determining future losses, we find on the basis of the claimant’s evidence, and on the balance of probabilities, that the claimant’s promotion will happen by no later than three months’ time (early July 2022) and any further financial loss will be extinguished at that stage.

18. On this basis, future losses are compensated for in the sum of three months' pay. Using the current net pay differential of £112.32 per week and multiplying that by 13 weeks, the award is £1,460.16.

***Total award of compensation for unlawful discrimination***

- 5 19. Based on the above analysis, the total award of compensation the respondent is ordered to pay to the claimant in respect of her discriminatory dismissal is **£18,583.62**.

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<b>Employment Judge:</b>	<b>P Smith</b>
<b>Date of Judgment:</b>	<b>06 May 2022</b>
<b>Date sent to parties:</b>	<b>06 May 2022</b>