



## EMPLOYMENT TRIBUNALS (SCOTLAND)

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**Case No: 4110360/2021 (V)**

**Held on 4 April 2022**

**Employment Judge N M Hosie**

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**Miss K Shaw**

**Claimant  
In Person**

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20 **Highland Industrial Training Suppliers (HITS) Ltd  
T/A Donnie Calder Plant Training**

**Respondent  
No Appearance**

### JUDGMENT OF THE EMPLOYMENT TRIBUNAL

25 The Judgment of the Tribunal is that:-

1. the respondent shall pay to the claimant the sum of Two Thousand, Nine Hundred and Thirty-Eight Pounds and Seventy-Five Pence (£2,938.75), in respect of the claimant's unfair dismissal;
- 30 2. the respondent shall pay to the claimant the sum of One Thousand, Six Hundred and Sixty-One Pounds and Twenty-Five Pence (£1,661.25), as a payment in lieu of annual leave; and
3. the respondent shall pay to the claimant the sum of Three Hundred and Eighty-Eight Pounds and Seventy-Five Pence (£388.75), as damages for  
35 breach of contract (failure to give notice of termination of employment).

**E.T. Z4 (WR)**

## REASONS

1. On 24 November 2021, Employment Judge O'Donnell issued a "Rule 21 Judgment" in this case, in consequence of the respondent's failure to enter a response to the claim. His Judgment was in the following terms:-

*"The judgment of the Employment Tribunal is that the claimant's complaints of unfair dismissal, breach of contract and holiday pay succeed.*

*The remedy to which the claimant is entitled will be determined at a hearing."*

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2. In accordance with that Judgment, a Remedy Hearing was fixed for 4 April 2022. The Hearing was conducted remotely by video conference using the "Cloud Video Platform" ("CVP").
3. I heard evidence from the claimant at the Remedy Hearing. Prior to the Hearing, she had submitted a Schedule of Loss, by e-mail on 17 March 2022 at 11:52, with supporting documentation. She gave her evidence in a measured, consistent and convincing manner. She presented as entirely credible and reliable.

### 20 Respondent's designation

4. The claimant was employed by **Highland Industrial Training Suppliers (HITS) Ltd.** I was satisfied on the evidence that the Company is now trading as "Donnie Calder Plant Training". I have amended the respondent's designation accordingly.

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### Unfair dismissal

5. The claimant was unfairly dismissed, summarily, on 22 April 2021. She was able to secure suitable alternative employment on 7 June 2021. She remains in that employment. Her earnings in her new employment are comparable with what she earned when she was employed by the respondent. As she

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was employed by the respondent for less than a year she is not entitled to a Basic Award.

6. So far as the Compensatory Award is concerned, I decided that it would be just and equitable to award her compensation to reflect her financial loss for the 7 week period from the date of her dismissal on 22 April to 7 June 2021 when she secured alternative employment. She earned, on average, £311 net per week, when she was employed by the respondent. The respondent also made pension contributions of £24.81. Accordingly, for that 7-week period her total financial loss was £2,351 (£2,177+£174). Further, the claimant was dismissed summarily, by telephone. There was a complete failure by the respondent to follow the ACAS Code of Practice on Disciplinary & Grievance Procedures. In these circumstances, I decided that it would be just and equitable to award the claimant an uplift of 25%, making the total Compensatory Award **£2,938.75**.

#### **Accrued annual leave/holiday pay**

7. The claimant received no payments from the respondent when she was dismissed. I was satisfied, on the basis of her evidence and the supporting documents, that she should have received a payment of £1,329 in respect of accrued annual leave, comprising a total of 158.4 hours at her hourly rate of £8.39. This award also falls to be uplifted by 25% making a total award in respect of accrued annual leave of **£1,661.25**.

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**Notice**

8. The claimant was dismissed summarily. In accordance with her contract of employment, she was entitled to one week's notice. This is calculated on the basis of net weekly pay and amounts to £388.75, with the 25% uplift.

**Employment Judge N Hosie**

**Date of Judgement: 6<sup>th</sup> April 2022**

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**Date Sent to Parties: 6<sup>th</sup> April 2022**