



EMPLOYMENT TRIBUNALS

SITTING AT: CROYDON (by CVP)
BEFORE: EMPLOYMENT JUDGE MORTON

BETWEEN:

Ms H Windsor

Claimant

AND

Matthew Law t/a Beauty Spa
Carla Riordan t/a Beauty Spa

First Respondent
Second Respondent

ON: 4 July 2022

Appearances:

For the Claimant: Mr McNamee, Solicitor

For the Respondent: No appearance

JUDGMENT ON RECONSIDERATION

1. The Claimant's claims of:

- a. Unfair dismissal;
- b. Failure to pay the Claimant notice pay;
- c. Failure to pay the Claimant outstanding holiday pay on termination; and
- d. Unlawful deduction from wages

succeed as against the First Respondent as well as the Second Respondent.

2. The Claimant is entitled to the following sums in compensation:

- a. £760 in respect of four weeks' notice;

- b. £2850 in respect of unpaid wages for the period 23 March 2020 to 8 July 2020 (15 weeks at £190 per week);
- c. £760 in respect of an unfair dismissal basic award;
- d. £500 in respect of loss of statutory rights;
- e. £1144.41 in respect of net loss of earnings from 5 August 2020 to 3 February 2021 (26 weeks earnings (£4940) after giving credit for £3795.59 in earnings from other employment); and
- f. £608 in respect of accrued but untaken holiday:

TOTAL £6622.41 which is subject to an uplift of 25 per cent (£1655.60) to reflect the unreasonable failure of the Respondents to follow the ACAS Code before terminating the Claimant's employment.

3. The total payable to the Claimant by the Respondent is therefore **£8278.01**.

Reasons

1. The hearing had been fixed to determine two matters:
 - a. whether the First Respondent was liable to the Claimant for her complaints as well as the Second Respondent, in respect of whom a judgment under Rule 21 has already been made; and
 - b. the amount of compensation that should be paid to the Claimant.
2. There was no appearance by either Respondent. The start of the hearing was delayed whilst attempts were made to contact the First Respondent, but these were unsuccessful and the hearing therefore commenced at 10.25.
3. I noted that the First Respondent had applied for a postponement of the hearing but had failed to provide the evidence in support of the postponement he had been asked to provide and the postponement was therefore refused by the Regional Judge on 1 July 2022.
4. Having heard the Claimant's evidence I concluded that the two Respondents had been carrying on business together with a view to profit and accordingly were partners in the business and were jointly and severally liable for its debts and liabilities. Judgment on liability for the Claimant's claims against her former employer is therefore given against both Respondents.
5. I then considered the Claimant's schedule of loss and discussed with the Claimant various revisions to the sum being claimed, including giving additional credit for earnings in January 2021 and a reduction in the holiday pay claim from 9.5 days to 8 days.
6. After the hearing I recalculated the amounts claimed and applied the uplift under s207 Trade Union and Labour Relations (Consolidation) Act 1992 after deducting

the sums the Claimant had earned after her employment ended. This gave a different figure from the sum initially set out in the Schedule of Loss.

7. I initially considered that recoupment would apply to a prescribed element of £1144.41. Having seen correspondence from the Department of Work and Pension to the Claimant dated 13 July 2022 confirming that she did not claim any state benefits during the period to which the award in my judgment relates, I am satisfied that the Employment Protection (Recoupment of Benefits) Regulations 1996 do not apply the award and that it is in the interests of justice to reconsider and amend the judgment accordingly.

Employment Judge Morton

Dated: 10 August 2022

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