



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Leighanne Carter

v

Obsessive Hair Ltd

Heard at: Southampton (video hearing)

On: 19 August 2022

Before: Employment Judge Housego

Appearances

For the Claimant: in person

For the Respondent: appearance not entered

JUDGMENT

1. The Claimant was unfairly dismissed by the Respondent.
2. The Respondent is liable to pay the Claimant 8 weeks' notice pay.
3. The Respondent made an unlawful deduction from the wages of the Claimant.
4. At the date of her dismissal the Claimant was entitled to two days' holiday.
5. The Respondent is ordered to pay to the Claimant the sum of **£6,149.60**, calculated as set out in the Schedule to this judgment.
6. The Recoupment Regulations do not apply to this judgment.

REASONS

1. The Respondent did not enter an appearance to this claim. I checked at Companies House. The Respondent is company number 13909719. It is an active company. Deborah Defoy is a director of it, from 01 March 2022.
2. The registered office at the time the claim was issued was 2 Feathers Lane Basingstoke RG21 7AS (it was changed on 27 July 2022). The claim form was served to that address on 29 April 2022.
3. That address is the address given to Companies House by Laura Michelle Charton as her address. The claim was properly served on the registered office of the Respondent at the time it was issued. A notice that the claim would proceed as an "appearance not entered" case was sent to the same



address (still the Respondent's registered office) on 14 June 2022. Notice of this hearing was sent on 20 July 2022 (again before the registered office was changed).

4. On 01 March 2022 Deborah Defoy acquired the Respondent. On 01 March 2022 she became a director of it. The previous owner, Laura Charlton, resigned as a director on 10 March 2022. The registered office was not changed until 27 July 2022.
5. The claim form was served to the Respondent's registered office, as were notice that it would proceed as an appearance not entered case and notice of this hearing. All were correctly sent to the Respondent's registered office.
6. The registered office prior to 27 July 2022, 2 Feathers Lane Basingstoke RG21 7AS, is the address of the salon, and so it is highly likely that Deborah Defoy knows of this claim, the Tribunal having sent the claim and two subsequent letters there, all addressed to the Respondent.
7. This hearing was conducted remotely, and the Claimant gave oral evidence, and I asked her questions. I found her a credible witness. I perused the documents supplied.
8. The Claimant is a hairdresser. On 18 March 2015 she started work at the salon run by the Respondent.
9. On 08 March 2022 Deborah Defoy who (from 01 March 2022) owned the Respondent called the Claimant to a meeting. The Claimant had no advance notice of the meeting, was not told that it was a disciplinary meeting and, as it was sprung on her, was not permitted a companion.
10. At that meeting the Claimant was summarily dismissed. Ms Defoy accused the Claimant of various matters, which she said was gross misconduct. No evidence of any of them was produced.
11. I find as a fact that the Claimant did not commit any act of gross misconduct. I do not set the allegations out as this document is a public document, and there is no need to give publicity to unfounded allegations. The allegations made by Ms Defoy, and the Claimant's rebuttal of them, are set out in box 8.2 of the ET1 claim form. I adopt that statement of case (as augmented by the Claimant's witness statement) as my findings of fact.
12. The Claimant claims compensation for unfair dismissal, notice pay, 2 days' accrued holiday pay, and S13 deduction from wages (she was not paid for 08 March 2022).
13. The reason given for dismissal was gross misconduct. That is a potentially fair reason for dismissal¹. The process followed was not fair². The

¹ S98(2) of the Employment Rights Act 1996

² Sainsbury's Supermarkets Ltd v Hitt [2003] IRLR 23 CA



dismissal meeting was an ambush. The Respondent did not have a genuine belief on reasonable grounds after proper investigation of misconduct³ (the Claimant had no opportunity to explain anything). The decision to dismiss was made before the meeting, the purpose of which was summarily to dismiss the Claimant, implementing a decision taken without the Claimant knowing anything about it. The dismissal was therefore unfair⁴.

14. Since I have found as a fact that the Claimant did not commit any act of gross misconduct it follows that had a fair procedure been followed there was no chance of the dismissal being fair, and so I do not reduce⁵ the awards I make.
15. Nor was there any conduct of the Claimant which might lead to a reduction in compensation⁶.
16. As this was a wrongful dismissal the Claimant should have been paid (and is entitled to) payment for the 8 weeks' notice to which she was entitled by the terms of her contract of employment.
17. The Claimant was not paid for the day she was dismissed, and so there was a deduction from her wages contrary to S13 of the Employment Rights Act 1996.
18. The Claimant had accrued holiday entitlement of two days, untaken at the date of dismissal, and is entitled to compensation in respect of that entitlement.
19. The Claimant worked 16 hours a week, usually two 8 hour days (her young daughter was at nursery two days a week). I therefore calculate a day's pay as half her weekly pay.
20. The Claimant is also entitled to compensation for not being allowed a companion⁷ at the dismissal meeting.
21. The Claimant has not received recoupable state benefits, and so the Recoupment Regulations do not apply.
22. The Claimant made efforts to find employment. Ultimately, she decided to set up on her own and claims no loss after 20 May 2022. The period 08 March 2022 until 20 May 2022 is a reasonable period for which to award compensation (insofar as it exceeds the 8 week notice period).
23. The amounts awarded are set out in the Schedule to this decision. It has been prepared using Bath Publishing's employmentlawclaimstoolkit software. Providing the correct figures have been input, the calculation will be correct.

³ British Home Stores Ltd v Burchell [1978] IRLR 379

⁴ S98(4) of the Employment Rights Act 1996

⁵ Polkey v AE Dayton Services Ltd [1987] UKHL 8

⁶ S122(2) and S123(6) of the Employment Rights Act 1996

⁷ S11-12 of the Employment Relations Act 1999



24. The Claimant tells me that she believes that Laura Charlton is still involved in running the salon from which the Respondent trades, and together with the fact that the letters from the Tribunal were sent to the salon, it is highly unlikely that the Respondent is unaware of this claim and this hearing.

Schedule – assessment of awards made:

<p align="center">IN THE EMPLOYMENT TRIBUNALS CASE NO: 1401339/2022 BETWEEN Leighanne Carter AND Obsessive Hair Ltd Awards to Claimant</p>	
1. Details	
Date of birth of claimant	14/06/1995
Date started employment	18/05/2015
Effective Date of Termination	08/03/2022
Period of continuous service (years)	6
Age at Effective Date of Termination	26
Date new equivalent job started or expected to start	20/05/2022
Remedy hearing date	19/08/2022
Date by which employer should no longer be liable	20/05/2022
Contractual notice period (weeks)	8
Statutory notice period (weeks)	6
Net weekly pay at EDT	247.00
Gross weekly pay at EDT	256.00
2. Basic award	
Basic award Number of qualifying weeks (5) x Gross	1,280.00



weekly pay (256.00)	
Less amount for unreasonable refusal to be reinstated	0.00
Less contributory fault (basic award) @ 0%	0.00
Less redundancy pay already awarded	0.00
Total basic award	1,280.00
3. Damages for wrongful dismissal	
Loss of earnings Damages period (8) x Net weekly pay (247.00)	1,976.00
Plus Pension contributions	84.48
Plus failure by employer to follow statutory procedures @ 25%	515.12
Total damages	2,575.60
4. Compensatory award (immediate loss)	
Loss of net earnings Number of weeks (2.4) x Net weekly pay (247.00)	592.80
Plus loss of statutory rights	500.00
Plus loss of commission and/or bonus	0.00
Less payment in lieu	0.00
Less ex-gratia payment	0.00
Less non-recoupable benefits	0.00
Less early payment of compensation	0.00
Total compensation (immediate loss)	1,092.80
5. Compensatory award (other statutory rights)	
Right to be accompanied	512.00
Holiday pay	256.00



Unlawful deductions	128.00
Total compensation (other statutory rights)	896.00
6. Adjustments to total compensatory award	
Less Polkey deduction @ 0%	0.00
Plus failure by employer to follow statutory procedures @ 25%	305.20
Less contributory fault (compensation award) @ 0%	0.00
Accelerated payment @ 0%	0.00
Compensatory award before adjustments	1,988.80
Total adjustments to the compensatory award	305.20
Compensatory award after adjustments	2,294.00
7. Summary totals	
Basic award	1,280.00
Wrongful dismissal	2,575.60
Compensation award including statutory rights	2,294.00
Total	6,149.60

Employment Judge Housego
Date: 19 August 2022

Sent to the parties on
5 September 2022 by Miss J Hopes

For the Tribunal Office