



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Miss S Wilson

v

Nationwide Care Services Limited

Heard at: **Birmingham (conducted in public on the Cloud Video Platform)** On: **1 and 2 September 2022**

Before: **Employment Judge Kenward (sitting alone)**

Appearances

For the Claimant: **Ms C Wilson (lay representative)**

For the Respondent: **Mr G Hine (solicitor)**

JUDGMENT

1. The complaint of unfair dismissal is well-founded. This means that the respondent unfairly dismissed the claimant.
2. The respondent is ordered to pay to the claimant compensation for unfair dismissal in the sum of £8,070.60 on the basis that:

(1) a basic award was calculated in the sum of £603.12 (on the basis that the conduct of the claimant before the dismissal was such that it would be just and equitable to reduce the sum calculated of £1,005.20 by 40%);

(2) a compensatory award was calculated in the sum of £7,467.48 consisting of:

(a) a prescribed element of £6,900.68 consisting of loss of earnings (in respect of the period from 11th December 2020 to 2nd September 2022) of £12,779.04 which was:

(i) subject to a reduction of 25% under the principles in *Polkey v A E Dayton Services Limited* [1988] ICR 142;

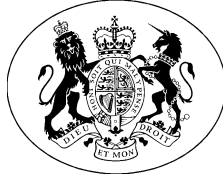
(ii) subject to an increase of 20% by reason of the respondent's failure to comply with the ACAS Code of Practice on disciplinary procedures; and

(iii) subject to a further reduction of 40% as being just and equitable in respect of the dismissal having been caused or contributed to by any action of the claimant;

(b) a non-prescribed element of £2,692.43 arrived at by:

(i) awarding £3,847.77 for future loss of earnings in respect of the period from 3rd September 2022 to 11th March 2022 in the sum of £3,847.77;

(ii) awarding compensation for loss of statutory rights assessed at £500.00;



(iii) then applying a reduction of 25% under the principles in *Polkey v A E Dayton Services Limited* [1988] ICR 142;

(iv) then applying an increase of 20% by reason of the respondent's failure to comply with the ACAS Code of Practice on disciplinary procedures;

(v) then adding an additional 4 weeks' pay amounting to £574.40 by reason of the claimant not having been provided with a written statement of the terms and conditions of employment as required by Employment Rights Act 1996 section 1;

(vi) then applying a further reduction of 40% as being just and equitable in respect of the dismissal having been caused or contributed to by any action of the claimant; and then

(c) with the total sum of £9593.11 then reduced to £7,467.48 by virtue of the application of the statutory cap (52 x a week's pay of £143.60) to the compensatory award.

3. The Respondent was in breach of contract by dismissing the Claimant without the full period of notice to which she was entitled, but no further sum is payable as damages.
4. The Respondent did not fail to pay the Claimant for annual leave that the Claimant had accrued but not taken when her employment ended.

Signed electronically by me

Employment Judge Kenward

Dated 2nd September 2022