



EMPLOYMENT TRIBUNALS

BETWEEN

**Claimant
MRS M LINFOOT**

AND

**Respondent
CORNWALLIS CARE SERVICES
LTD**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD AT: BRISTOL ON: 14TH JUNE 2022

**EMPLOYMENT JUDGE MR P CADNEY
(SITTING ALONE)**

MEMBERS:

APPEARANCES:-

FOR THE CLAIMANT:- MR T O'BRIEN

FOR THE RESPONDENT:- NO ATTENDANCE

JUDGMENT

The judgment of the tribunal is that:-

Liability

1. No response having been entered to the claimant's claim that she was automatically unfairly dismissed pursuant to s103A Employment Right Act judgment is entered pursuant to rule 21 Employment Tribunals Rules of Procedure 2013.

Remedy

2. The respondent is ordered to pay the following sums to the claimant:
 - i) Loss of earnings- £5,101.00

- ii) Loss of Statutory Rights - £500
- iii) Injury to feelings - £10,000.
- iv) Total: £15,601.00

Reasons

1. The claimant was employed by the respondent from the 4th of November 2019 until the 14th of June 2021. She does not have sufficient length of service to bring a claim for ordinary unfair dismissal but has brought a claim for automatic unfair dismissal pursuant to section 103A Employment Rights Act 1996 which does not require any length of service. No response has been entered to that claim and accordingly judgment is entered for the claimant pursuant to rule 21 of the employment tribunal rules.
2. The claimant has sought a number of heads of compensation which are not in my judgement recoverable. Firstly she claims for loss of earnings during a period of suspension from the 27th of April 2021 until her dismissal. It is possible that had she brought a claim for whistle blowing detriment, that pre dismissal losses may have been recoverable. However as the only claim before the tribunal relates to her dismissal in my judgement losses predating the dismissal are not recoverable. In addition the claimant has claimed in her schedule of loss, for loss of earnings for periods when she was absent through sickness during the course of her employment. These are also not elements for which she can be compensated arising from her dismissal.
3. In addition there is a claim for an uplift for the failure to follow the ACAS Code of Practice which is not applicable to this claim.
4. In relation to post dismissal losses, Mr O'Brien who represents her it has emailed the tribunal to indicate that she had a health incident work in February 2022 following which she spent 2 1/2 weeks in hospital with a heart condition and has not been able to return to work since. In my judgement it follows at that the award for compensation for future loss that should stop at February 2022 which is the point at which she would have been unable to continue working in any event. The amounts awarded to her are set out below.
5. Loss of earnings - the claimant was out of work from the 14th of June until the 29th of August which is 10 weeks at a weekly loss of £313 (£3130). She worked 15 weeks with an income of £300 which is an ongoing loss of £13 per week giving a total of £195. From that point she was on sick pay of £91 per week giving a weekly loss of £222 until February 2022 which is 8 weeks giving a figure of £1776. The total loss of income is therefore £5101.00.
6. Loss of Statutory Rights -£500

7. Injury to Feelings - The claimant is also entitled to an award for injury to feelings for the fact of having been dismissed for whistle blowing. In my judgement the award falls the lower end of the middle bracket and I have concluded 10,000 pounds is the appropriate sum.
8. The total amount awarded to the claimant is therefore £15,601.00

EMPLOYMENT JUDGE CADNEY
Dated: 22nd June 2022

AMENDED COPY OF THE
JUDGMENT SENT ON:
20 September 2022
By Mr J McCormick

For the Tribunal Office