



# EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mrs A Coroian

v

Mrs A Abnoosian, as Personal  
Representative of the Estate of the  
late Dr V Toomassian

Heard at: Watford

On: 26 August 2022

Before: Employment Judge R Lewis

## Appearances

For the Claimant: In person

For the Respondent: No participation

## ***CORRECTED JUDGMENT***

1. The respondent is correctly named above.
2. The respondent is ordered to pay to the claimant the following sums:
  - 2.1 Net pay of £1136.48 in respect of net pay to 31 December 2020;
  - 2.2 £155.00 in respect of guaranteed pay for January 2021;
  - 2.3 A redundancy payment of £1440.00.

The sum payable by the respondent to the claimant is accordingly a total of £2,731.48.

## **REASONS**

1. The tribunal gives these reasons of its own initiative, as the respondent did not take part in this hearing. ***Paragraph 14 of these Reasons has been corrected, although the correction does not change the calculation.***
2. The claim was presented to the Tribunal on 9 July 2021. It named two respondents. The first was Dr V Toomassian and gave a practice address

in Luton. The second was Mrs A Abnoosian and gave a residential address in London. There had been Early Conciliation for both respondents. Day A was respectively July 7<sup>th</sup> and 8<sup>th</sup> and Day B for both was July 8<sup>th</sup>.

3. The claims were served in the usual way on both respondents at both addresses on 17 August 2021. No responses were received from either. By letter of 25 January 2022 the Tribunal notified the parties that a Remedy Hearing would be held by video on 25 June 2022. Due to lack of judicial resource, that hearing was on 24 June postponed, whilst notification of today's hearing was sent on 12 July. The Tribunal file showed that its letter to Dr Toomassian's practice address of 24 June 2022 had been returned by Royal Mail.

### **Identity of parties**

4. The first matter for consideration was identity of respondent and participation in this hearing.
5. The claimant told me, and I accept, that the late Dr Toomassian practised at the Wigmore Dental Clinic, Luton. Her contract of employment was with him as an individual, and her payslips named him as an individual as employer. She was one of only two employees, and had worked at the practice for over four years.
6. The claimant told me that Dr Toomassian was admitted to hospital on about 4 January 2021 and died on 22 January. His death was untimely and unexpected.
7. The claimant said that she was thereafter in frequent contact with Mrs Abnoosian, who is the widow of Dr Toomassian, and who has since then been responsible for the management of his financial affairs. The claimant understood from Mrs Abnoosian that Dr Toomassian died intestate, ie without leaving a will. The claimant said that Dr Toomassian left no children.
8. From that information I infer that Mrs Abnoosian, as the widow of Dr Toomassian, is the personal representative of the estate of her late husband, and therefore properly the respondent to this claim in accordance with s.206(1) Employment Rights Act 1996.
9. I considered whether it was necessary to make a formal order to that effect, direct re-service on Mrs Abnoosian, and adjourn, possibly for several months.
10. That course did not seem to me in the interests of justice because Mrs Abnoosian has had a number of items of correspondence from the Tribunal over a year, to none of which she has responded. I did not ask a member of Tribunal staff to contact her in accordance with Rule 47, because I had no contact details on file, in the absence of her completed form ET3.

11. My mind is entirely open to the possibility that in light of this judgment, Mrs Abnoosian may apply for reconsideration. However, if she does so, the Tribunal will not be able to entertain an application unless she submits a completed form ET3 and grounds of resistance and applies for them to be accepted significantly out of time.

### The claims

12. In the course of this hearing the claimant clarified that she brings three claims. The first is that she was some months after the death of Dr Toomassian issued with a payslip which represented pay earned in December 2020, which in the normal course of events would have been paid on or about 6 January 2021, and the payslip issued on or about that date. Although she received the payslip, the claimant had not received the net sum due to her of £1136.48 which it identified.
13. The second was whether the claimant had any rights to payment in the period when the practice was closed between 4 January and Dr Toomassian's death on 22 January. Her contract of employment gave her an entitlement to five days guaranteed pay at the statutory rate, which was £31.00 per day.
14. Her third claim was for redundancy payment. She had ~~four completed years' service, two over the age of 41~~ **five completed years service under the age of 41** and therefore claimed as follows: 32 hours per week x £9.00 per hour x 5, a total of £1440.00.
15. The first two claims had been brought out of time. I therefore had to decide whether or not it was reasonably practicable for them to have been brought within time.
16. The claimant told me, and I accept, that after the death of Dr Toomassian, when there was a period of shock, distress and uncertainty, she asked ACAS for guidance. She was told that the situation was an unusual one (although death of a sole practitioner is not an exceptional event); and that her employment would transfer to any new owner of the practice, if Mrs Abnoosian succeeded in her goal of selling the practice. She was therefore advised by ACAS to wait and see how matters developed. That was incomplete advice, because it was based on the assumption that the practice would be sold, and that the claimant's employment would therefore transfer.
17. I accept that the claimant accepted that advice, and that in late June or early July, Mrs Abnoosian told her that she was unable to sell the practice. The claimant sought advice, again from ACAS, and was advised at that point to enter early conciliation, and issue a Tribunal claim.
18. It seems to me that on that basis, it was not reasonably practicable for the claims for arrears of pay to have been presented within time, and that once the position changed, the claimant acted promptly. I accept therefore that the Tribunal has jurisdiction to hear the claims.

**Merits and calculations**

19. I accept all three elements of the claim. As to the first, the claimant has demonstrated that the payment of £1136.48 has not been made.
20. As to the second, I accept that the claimant received no pay from 4 January 2021 onwards, and her entitlement was limited to the guarantee payment identified above.
21. As to the third, I accept that upon Dr Toomassian's death, the claimant was redundant, and that the redundancy payment has been correctly calculated.
22. The claim therefore succeeds for the sums stated.

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Employment Judge R Lewis

Date: 31 August 2022

Amended: 28 November 2022

Sent to the parties on: 15 September 22

For the Tribunal Office