



EMPLOYMENT TRIBUNALS

Claimant: Miss C Smith

Respondent: Acafe Sandwich Bar Limited

Heard at: By CVP at Midlands West Employment Tribunal

On: 3 and 4 November 2022

Before: Employment Judge Platt

Representation

Claimant: in person

Respondent: did not attend

JUDGMENT

The Claimant's claim for unfair dismissal is well-founded and succeeds. The Claimant's claim for unpaid holiday pay for January – November 2021 succeeds. The Claimant claim for breach of contract in respect of four-weeks' notice pay succeeds.

The Respondent's counter-claim for recovery of a loan of £500 succeeds. The Respondent's counter-claim in respect of a microwave is dismissed.

The name and identity of the Respondent is amended to Acafe Sandwich Bar Limited.

The Respondent is ordered to pay the Claimant the following sums:

1. Basic award for unfair dismissal: $2 \times £500 = \mathbf{£1,000}$
2. Breach of contract (four weeks' notice): $£410.42 \times 4 = £1,641.68$ plus 25% uplift for failure to follow ACAS Code of Practice ($£410.42$) = $£2,052.10$ minus £500 Respondent's counter-claim = **£1,552.10**
3. Compensatory award for unfair dismissal (past losses) of **£12,604.34** (the Prescribed Element) for the period 28 December 2021 to 4 November 2022 (the Prescribed Period) made up of the following elements:
 - a. 28 December 2021 – 28 February (9 weeks @ $£410.42$ per week) = $£3,693.78$
 - b. 1 March 2022 – 13 August 2022 (24 weeks @ $£266.49$ being the difference between the Claimant's new net weekly rate of pay and her weekly net rate of pay with the Respondent) = $£6,395.76$

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- c. 26 August 2022 – 4 November 2022 (10 weeks @ £251.48 being the difference between the Claimant's new net weekly rate of pay and her weekly net rate of pay with the Respondent) = £2,514.80

4. Loss of statutory rights = **£500**
5. Compensatory award for unfair dismissal (future losses)
10 weeks @ £251.48 per week = **£2,514.80**
6. Adjustments to total compensatory award
Uplift of 25% for failure to follow the ACAS Code of Practice (£15,619.14 as set out at 3,4 and 5 above) = **£3,904.76**
7. Holiday pay (in respect of 25.66 days holiday for 2021) in the gross sum (subject to deductions for income tax and national insurance) of **£2,566.66**

The Employment Protection (Recoupment of Benefits) Regulations 1996, SI 1996 No 2349, apply. In accordance with those Regulations: (a) the total monetary award made to the Claimant (in this Judgment) is **£24,642.66**; (b) the amount of the Prescribed Element is **£12,604.34**; (c) the dates of the period to which the prescribed element is attributable are 28 December 2021 to 4 November 2022.

Employment Judge Platt

4 November 2022

SENT TO THE PARTIES ON