



EMPLOYMENT TRIBUNALS

Claimant

Miss D. McShane

AND

Respondent

1. Owen Owen (Western) Ltd (in liquidation)
2. SoS for Business, Energy & Industrial Strategy

HEARD AT:

Watford Tribunal Centre (CVP)

ON: 15 December 2022

BEFORE:

Employment Judge Douse (Sitting alone)

Representation:

For Claimant: Mr. S. McShane (lay representative)

For Respondents: No appearance

RULE 21 JUDGMENT

1. The Claimant was unfairly dismissed, and is entitled to a redundancy payment
2. The Claimant's contractual right to notice was breached, and she is entitled to pay in lieu of notice
3. The Claimant suffered unlawful deductions from wages
4. The Claimant is owed holiday pay
5. The Claimant is entitled to an award for loss of statutory rights
6. The Claimant was not provided with a written statement of particulars

REMEDY

1. The second respondent is ordered to pay the claimant a redundancy payment of **£2,793.26** (gross)
2. The second respondent is ordered to pay the claimant the gross sum of **£150** in relation to unpaid wages
3. The second respondent is ordered to pay the claimant the gross sum of **£38.94** in relation to accrued but unused holiday
4. The second respondent is not required to make any separate payment in relation to notice pay as this has already been paid (*see schedule below*)
5. The second respondent is ordered to pay the claimant the gross sum of **£500** in relation to loss of statutory rights
6. The second respondent is ordered to pay the claimant the gross sum of **£500** in relation to failure to provide a written statement of particulars
7. The first respondent is ordered to pay the claimant the gross sum of **£380** in relation to preparation time

In respect of any gross amount, the respondent can comply with this element of the award by deducting and paying any relevant tax and national insurance, and by providing evidence that this has been paid, before paying the net amount to the claimant. If this is not done, the gross amount is payable to the claimant.

Schedule

Redundancy

12 years at: 1.5 weeks (age over 41 throughout employment) x £250¹ per week = £4,500
less amount already paid - £1,706.72
= £2793.26

Notice pay

12 weeks x £250 (net weekly rate) = £3,000
less amounts already paid - £1586
- £1420
= £-6.01

¹ There was evidence presented to the Tribunal that this was the correct weekly pay at the time of dismissal

Holiday pay

9 days x £50 (gross daily rate)	= £450
less amount already paid - £405.05	
less overpaid notice pay - £6.01	
	= £38.94

Unpaid wages

3 days x £50 (gross daily rate) for 28, 29 & 30 ² June 2021	= £150
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Loss of statutory rights	= £500
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Failure to provide statement of written particulars

2 weeks x £250 (gross daily rate)	= £500
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Unfair dismissal

Basic Award offset by redundancy payment	– no award made
Compensatory Award – 100% Polkey deduction applied to reflect that the claimant would have been dismissed within the 12-week notice period if a fair procedure was followed	– no award made

Preparation Time Order

10 hours x £38 (statutory cap)	= £380
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Interest accrues at a daily rate of 8% from the date of judgment, unless payment is made within 14 days.

² There was evidence before the Tribunal that this was termination date

Employment Judge K Douse

Dated: 15 December 2022.....

Sent to the parties on: 26 January 2023.

NG

For the Tribunal Office

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employmenttribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.