



EMPLOYMENT TRIBUNALS

Claimant: Mrs C Luckock

Respondents: Ardeigh House Community Association

Heard at: East London Hearing Centre

On: 12 and 13 January 2023

Before: Employment Judge Park

Members: Mr J Webb
Mr P Lush

Representation

Claimant: In person
Respondents: Mr P Panton (Vice-Chair)

JUDGMENT

1. Under the Claimant's contract she was entitled to be paid the National Minimum Wage. At the relevant time the National Minimum Wage was £8.91. The Claimant's normal working hours were 15 hours per week, but her actual hours varied and sometimes she worked more than that. The Claimant had not returned to work after being placed on furlough in March 2020. The claimant's average hours for the 12 weeks she worked before furlough were 15 hours. Based on this a normal week's pay, at the time her employment terminated, was £133.65.
2. The Claimant was dismissed by the Respondent. Her employment terminated on 26 January 2022. The reason for dismissal was redundancy. On the termination of her employment the Claimant was entitled to receive a statutory redundancy payment, notice pay and pay in respect of accrued untaken annual leave. She did not receive these payments. The Claimant's claims for a statutory redundancy payment, notice pay, and holiday pay succeed.
3. The Claimant had 21 years' continuous service and when her employment terminated, she was 78. For the purposes of her entitlement to notice and a statutory redundancy payment, a week's pay was £133.65. The Respondent is ordered to pay the Claimant:
 - a. **£1,603.80** in respect of her notice pay; and
 - b. **£4,009.50** in respect of her statutory redundancy payment.

4. Under the Working Time Regulations 1998 the Claimant was entitled to 5.6 weeks' paid annual leave per year. On the termination of her employment she had accrued 3 weeks' annual leave that had not been taken. The Respondent is ordered to pay the Claimant the sum of **£400.95** in respect of holiday pay.
5. The Claimant's claim for unfair dismissal succeeds. As the Claimant's claim for a statutory redundancy payment succeeds the Respondent is already ordered to pay the Claimant a statutory redundancy payment so in accordance with section 122(4) Employment Rights Act 1996 the basic award is reduced to nil.
6. The Tribunal found that the Respondent dismissed the Claimant by reason of redundancy, which was a potentially fair reason. It also found there was a genuine redundancy situation and had the Respondent followed a fair procedure the Claimant would have been fairly dismissed by reason of redundancy in any event. The likelihood of this happening was 100% and had a fair procedure been followed at the time the decision was made the Respondent would probably have dismissed the Claimant some time before her employment actually terminated. For this reason, no compensatory award was made.
7. The Claimant's claims for direct age discrimination succeed in respect of the following unfavourable treatment by the Respondent:
 - a. failure to contact the Claimant about its decision to close the kitchen/snack bar;
 - b. failure to pay a redundancy payment; and
 - c. expecting the Claimant not to make a fuss about these matters.
8. The Claimant's claim that the decision to close the kitchen/snack bar and make her redundant was direct discrimination on the grounds of age does not succeed.
9. The Respondent is ordered to pay the Claimant the sum of **£5,000.00** as compensation for injury to feelings in respect of the age discrimination. Interest is awarded on this sum at the rate of 8% for 352 days, amounting to **£385.75**. As the decision to close the kitchen, and thereby dismiss the Claimant, has not been found to be discriminatory no compensation is awarded for financial loss.
10. The total amount awarded is:

Notice pay	£1,603.80
Statutory redundancy payment.	£4,009.50
Holiday pay	£400.95
Injury to feelings	£5,000.00
Interest	£385.75
Total	<u>£11,400.00</u>

Case Number: 3203860/2022

**Employment Judge Park
Date: 31 January 2023**