



# EMPLOYMENT TRIBUNALS

**Claimant:** Chloe Geldard  
**Respondent:** Stabby Limited

## AT A HEARING

**Heard at:** Leeds by CVP video conferencing **On:** 17<sup>th</sup> April 2023

**Before:** Employment Judge Lancaster

### Representation

**Claimant:** In person  
**Respondent:** No appearance entered and did not attend

Rule 21 Employment Tribunals Constitution and Rules of Procedure Regulations 2013.

## JUDGMENT

1. The Claimant's dismissal on 16<sup>th</sup> October 2022 was less favourable treatment because of disability, and the claim of direct discrimination is well-founded.
2. The determination of the remedy for that act of disability discrimination is adjourned to a further hearing. Case management directions are provided in a separate Order.
3. The claim of statutory automatically unfair dismissal under section 104A (1) (c) of the Employment Rights Act 1996 does not succeed because the Claimant cannot show that the principal reason for termination was that whilst she was not yet being paid the appropriate national minimum wage rate she would admittedly have qualified for the living wage of £9.50 per hour after 27<sup>th</sup> December 2022.
4. The claim of wrongful dismissal (termination in breach of contract without payment of the statutory minimum 1 week's notice) is well-founded.
5. The Respondent is ordered to pay damages to the Claimant in the gross sum of £266.00 calculated on the basis of 4 days per week, 7 hours per day at the national minimum wage rate which ought to have been paid, £9.50 and not the apprenticeship or any other lower rate.
6. The Respondent has failed to pay the Claimant for any accrued paid holidays due at the date of termination.

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7. The Respondent is ordered to pay to the Claimant the gross sum of £1199.66 in compensation, calculated on the proportion of the leave year elapsed from the commencement of employment , 27<sup>th</sup> December 2021, being  $294/365 \times 5.6$  weeks statutory minimum entitlement, which is 4.51 weeks at £266.00 per week.
8. The Respondent has made a series of unauthorised deductions from the Claimant's wages by not paying her at the appropriate national minimum wage throughout the course of her employment.
9. The Respondent is ordered to pay to the Claimant the gross sum of £4007.72 in compensation, calculated on the basis of the Claimant's figure 756 hours worked in total, of which 392 can be ascribed to the period up to 1<sup>st</sup> April 2022 when the national minimum wage was £8.91 per hour and 364 to the period thereafter when the rate had increased to £9.50 per hour, being £6957.72 whereas the Claimant was in fact only paid a total of £2950.00 throughout the whole of her employment.
10. The Respondent has also failed to provide a written statement of the terms and conditions of employment which complies with the requirements of Part 1 of the Employment Rights Act 1996, and is therefore further ordered to pay an additional award of 4 weeks' pay, £1064.00. pursuant to section 38 of the Employment Act 2002.

EMPLOYMENT JU DGE LANCASTER

DATE 17<sup>th</sup> April 2023

**Note**

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

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