



EMPLOYMENT TRIBUNALS

Claimant: Miss Taylor Green
Respondent: Real Bars Ltd
On: 13 February 2023
Before: Employment Judge Ahmed (sitting alone)
At: Leicester (via CVP)

Representation

Claimant: In person
Respondent: No appearance or representation

JUDGMENT

The decision of the Tribunal is that:

1. The Respondent is ordered to pay to the Claimant compensation for unfair dismissal of £3,982.94 net in accordance with the Schedule below.
2. The Respondent is ordered to pay to the Claimant damages for breach of contract (failure to pay notice pay) of £858.60 net.
3. The Respondent is ordered to pay to the Claimant £2,575.80 net in respect of an unlawful deduction of wages.
4. The Respondent is ordered to pay to the Claimant £1,202.04 net in respect of unpaid holiday pay.

Schedule (referred to in paragraph 1 above)

Basic award

The Claimant began her employment on 22.5.2019. Her effective date of termination was 27.5.2022. She was aged 21 at the time and had 3 years of service.

The basic award is therefore (1.5 x £211.84).....£317.76

Compensatory award

The Claimant was unemployed for 11 weeks from 27.5.2022 to 11.8.2022:

| | |
|---|-----------|
| Loss of earnings for 11 weeks x £211.65..... | £2,361.15 |
| Loss of statutory rights | £571.00 |
| Sub-total..... | £2,932.15 |
| Add 25% for failure to comply with ACAS Code..... | £733.03 |
| Total compensatory award..... | £3665.18 |
| Add Basic award..... | £317.76 |
| Total award for unfair dismissal..... | £3,982.94 |

REASONS

1. The Claimant was employed by the Respondent from 22 May 2019 to 27 May 2022 (the 'effective date of termination') as a Barmaid.
2. The Claimant did not receive her normal wages for March 2022 and further deduction to the end of her employment amounting to £2,575.80. The Claimant's claim for an unlawful deduction of wages succeeds.
3. The Respondent did not pay accrued holiday pay on termination of employment which at that stage amounted to £1,202.04. Her claim for unpaid holiday pay therefore succeeds.
4. The Claimant was dismissed without notice. She was entitled to a minimum period of 3 weeks' notice. The Claimant is awarded damages for breach of contract (failure to pay notice pay) of £858.60 net.
5. The Claimant was dismissed by text message on 27 May 2022. The Respondent has failed to show a potentially fair reason for dismissal under section 98(1) and (2) of the Employment Rights Act 1996. The dismissal is therefore unfair.
6. The Claimant presented her claim to the Tribunal on 21 September 2022. A copy of the Claim Form along with details of how to respond were sent by the Tribunal to the Respondent on 26 September 2022 at 1 Bedford Road, Burton Upon Trent, DE15 9JG which is the registered office of the Respondent.
7. The Respondent failed to submit a Response (ET3) within the required time limit of 24 October 2022 or any time thereafter up to the date of this hearing.
8. At a hearing on 13 February the Claimant attended the Tribunal (remotely via CVP) and set out her losses. The Respondent did not attend nor was it represented.
9. I am satisfied the Claimant is entitled to a basic award of £317.76. The Claimant was aged 21 at the effective date of termination. She had worked for the Respondent for 3 years. Her gross weekly pay on termination was £211.84.
10. I am satisfied the Claimant has established loss of earnings for 11 weeks from the date of dismissal to 11 August 2022. She is entitled to a compensatory award for

loss of earnings of 11 weeks being £2,361.15 (11 x £211.65). Her net average pay includes additional hours she would normally undertake. She is also entitled to loss of statutory rights of £571.00 as compensation for the fact that she will need to work 2 years for another employer to acquire unfair dismissal rights.

11. There has been a wholesale failure to comply with the ACAS Code of Practice. In particular the Respondent has unreasonably and without explanation failed to comply with paragraphs 5,9,10 and 11 of the Code. It is appropriate to make the maximum uplift of 25% in this case.

Employment Judge Ahmed

Date: 12 April 2023

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