



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss Cullimore

**Respondent:** Adult Home Care Limited trading as Right At Home Swansea (in Creditors Voluntary Liquidation)

**Heard at:** Cardiff (in public; by video) On: 19<sup>th</sup> April 2023

**Before:** Employment Judge Howden-Evans  
Tribunal Member K Smith  
Tribunal Member L Bishop

**Representation:**

Claimant: In person, supported by her aunt, Ms Fanner

Respondent: No attendance

## JUDGMENT

The unanimous judgment of the Employment Tribunal is as follows:

1. The Claimant is owed arrears of pay of £819.12.
2. The Claimant is awarded £51,224.22 compensation for injury to feelings and interest thereon (which includes an award of compensation for aggravated damages of £7,000).
3. The Claimant is awarded £35,857.51 in respect of her past losses and interest thereon.

4. The Claimant is awarded £21,685.48 compensation in respect of her future losses, including loss of earnings and future pension losses.
5. The Respondent is liable to pay the Claimant the net sum of **£108,767.21** and must account for the tax and National Insurance due on this sum.
6. The Employment Protection (Recoupment of Job Seekers Allowance and Income Support) Regulations 1996 do not apply to this judgment.

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**EMPLOYMENT JUDGE HOWDEN-EVANS**

**Dated: 10<sup>th</sup> May 2023**

Judgment posted to the parties on 11 May 2023

For Secretary of the Tribunals  
Mr N Roche

**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.

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**Note of Key Findings and Calculations**

1. At this remedy hearing conducted wholly remotely by video, we heard evidence on oath from the Claimant and had the benefit of a bundle of documents

evidencing her losses. There was no attendance by or on behalf of the Respondent. The Respondent company's liquidator was notified of this hearing and confirmed they did not wish to make written representations.

2. In the liability judgment, the tribunal found the Respondent had subjected the Claimant (who has bipolar disorder) to disability discrimination by:
  - 2.1.failing to comply with its duty to make reasonable adjustments (Sections 20, 21(2), 25(2)(d), 39(2)(c) and 39(5) of the Equality Act 2010) and.
  - 2.2.treating the claimant unfavourably because of something arising in consequence of her disability (s15 Equality Act 2010).
3. We have been careful to only compensate for Injury to Feelings and losses that flow from the discriminatory acts.
4. We are mindful that this is a public document and have refrained from detailing the medical evidence we have received. It suffices to say the acts of discrimination had a profound effect on the Claimant's health, wellbeing, career and life. She has been acutely unwell; too unwell to work in any capacity since September 2018 (4 ½ years) and is currently too unwell to live alone.
5. From the evidence we have seen in both hearings, we note that the Claimant was an outstanding carer. She was dedicated, conscientious and hardworking. She demonstrated great affection for all her clients, and they spoke highly of her and her ability. When considering the injury to feelings award, we note some of the distress and anguish the Claimant has experienced is knowing she is currently not well enough to do a job that she was really good at.
6. Having considered each of the incidents and the distress caused, we are satisfied that the appropriate Injury to Feelings award is £37,000 (of which £7,000 is for aggravated damages for the additional harm caused by the employer deliberately repeatedly misreporting her income to HMRC and the financial hardship and distress this caused the Claimant). For instance, for the tax year 6th April 2020 to 5th April 2021 the Respondent has falsely reported to HMRC that it has paid the Claimant £14,390, when the last payment she has received from the Respondent was £1,522.50 on 27th September 2018. The total amount of income that has ever been paid by the Respondent into the Claimant's bank account is £7,227.94.
7. The tribunal accept that it is likely to take at least until November 2023 for the Claimant to be well enough to work in a voluntary role. All being well, our best estimate of her return to paid employment is that she may be well enough to return to part time work by 19th April 2024 (working 16 hours per week) and full time work by 19th October 2024.

**Calculations**

Claimant's salary as Senior Carer: £10 per hour x 36 hours per week =  
 Gross weekly pay of £360; £1,560 per month; £18,720 per annum  
 Net pay: £1,396 per month; £322.16 per week.

Employer pension contributions were 3% of gross pay

The Claimant's Effective Date of Termination ("EDT"): 6<sup>th</sup> September 2018  
 First Act of Discrimination: 30<sup>th</sup> June 2018 – failure to make reasonable adjustments.

**Compensatory Award (immediate loss)**

**Loss of Earnings EDT to Date of Calculation (6<sup>th</sup> September 2018 to 19<sup>th</sup> April 2023): 241 weeks**

|                                                             |                    |
|-------------------------------------------------------------|--------------------|
| 241 weeks x £322.16 net pay                                 | £77,640.56         |
| Universal Credit received up to 19 <sup>th</sup> April 2023 | <u>(50,167.09)</u> |
|                                                             | <b>£27,473.47</b>  |

**Pension contributions**

|                        |                  |
|------------------------|------------------|
| 3% of £360 x 241 weeks | <b>£2,602.80</b> |
|------------------------|------------------|

**plus Interest**

(calculated at 8% per annum from 23<sup>rd</sup> November 2020 (ie the midpoint between the date of the first act of discrimination [30<sup>th</sup> June 2018] and the calculation date [19<sup>th</sup> April 2023])

|                                                                  |                         |
|------------------------------------------------------------------|-------------------------|
| £30,076.27 (£27,473.47 plus £2,602.80) x 8% per annum x 877 days | <b><u>£5,781.23</u></b> |
|------------------------------------------------------------------|-------------------------|

|                                                  |                          |
|--------------------------------------------------|--------------------------|
| <b>Total Compensatory Award (immediate loss)</b> | <b><u>£35,857.51</u></b> |
|--------------------------------------------------|--------------------------|

**Compensatory Award (future loss)**

**Loss of Earnings & pension contributions**

19<sup>th</sup> April 2023 to 19<sup>th</sup> April 2024:

|                             |                   |
|-----------------------------|-------------------|
| Net Pay: 52 weeks x £322.16 | <b>£16,752.32</b> |
|-----------------------------|-------------------|

|                                                |                |
|------------------------------------------------|----------------|
| Pension contributions:<br>52 weeks x 3% of 360 | <b>£561.60</b> |
|------------------------------------------------|----------------|

