



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr J Morgan

**Respondent:** HBS Foods Ltd

**Heard at:** Birmingham

**On:** 12, 13, 14, 15 June 2023

**Before:** Employment Judge Meichen, Mr E Stanley, Mrs E Shenton

**Appearances:**

For the claimant: in person

For the respondent: Mr P Collins, senior litigation consultant

## JUDGMENT

1. The claimant was unfairly dismissed.
2. The claimant was not discriminated against because of age.
3. It is not appropriate to make a Polkey reduction in this case.
4. It was agreed that the claimant should be awarded £500 for loss of statutory rights.
5. It was agreed that the claimant was not entitled to a redundancy payment or compensation for injury to feelings and therefore the claimant is simply entitled to a compensatory award.
6. It was agreed that the claimant had mitigated his loss between 30 September 2021 and 26 January 2022 and that therefore the claimant should recover loss of earnings for that period subject to a deduction for his PILON and income received for training (assessed to be £115.75 gross).
7. The claimant's loss of earnings from 30 September 2021 should be calculated on the basis of the loss of his full time earnings rather than his part time earnings when he was furloughed.
8. The claimant failed to mitigate his loss from 26 January 2022. Had he continued to mitigate his loss the claimant would have obtained a job at a similar rate of pay in 6 months. The claimant should therefore recover loss

of earnings for a further period of 6 months from 26 January, subject to a deduction for the income the claimant received (except the income received for training which has already been accounted for).

9. The parties are to seek to agree the final figure for the compensatory award based on the above findings. A case management order will be issued separately in order to facilitate that.

**Employment Judge Meichen**

15 June 2023