

Case No: 1406139/2020



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr. David West  
**Respondent:** Chartwell Salon Supply Limited (in compulsory liquidation)  
**Heard at:** Southampton Employment Tribunal via CVP  
**On:** 7<sup>th</sup> June 2023

**Before:** Employment Judge Lang

## Representation

**Claimant:** Ms. T. Ahari (Counsel)  
**Respondent:** Not in attendance. The Official Receiver having emailed the Tribunal on the 1<sup>st</sup> June confirming they would not be in attendance.

It is recorded that by way of Order of District Judge Singh, approved on the 22<sup>nd</sup> August 2022, the Claimant had permission to pursue his claims against the Respondent.

# JUDGMENT

1. The Judgment of the Tribunal is that the Claimant was dismissed on the 2<sup>nd</sup> September 2020 without notice, not the 31<sup>st</sup> July 2020 as the Respondent had alleged. Therefore, the Claimant was employed up until 2<sup>nd</sup> September 2020.
2. The Claimant was unfairly dismissed for which the Respondent shall pay to the Claimant:
  - a. Basic Award: £Nil. The Claimant has already been paid a redundancy payment.
  - b. Loss of statutory rights **£500.00**.
  - c. Compensatory award: **£4,287.88** net.

The Tribunal considered that had the Respondent followed a fair procedure the Claimant would likely have been dismissed on 30<sup>th</sup> November 2020 with 12 weeks' notice. The compensatory award therefore has been calculated on the basis that had the Claimant not been unfairly dismissed on 2<sup>nd</sup> September 2020 he would have remained employed until the 30<sup>th</sup> November 2020 and then received 12 weeks' pay in notice. The tribunal therefore considers that the Claimant's compensatory loss is for a period of 12 weeks and 4 working days the claimant (the period from 2<sup>nd</sup> September to 30<sup>th</sup> November) that sum being calculated as follows:

Net weekly wage £334.99 x 12 weeks = £4,019.88.

Net weekly wage £334.99 x 0.8 (that being 80% of the working week, the claimant would work 5 days per week) = £268.00

Total added together = £4,287.99.

3. The Respondent breached the Claimant's contract for failure to pay his notice pay of 12 weeks, and therefore the Claimant's claim for wrongful dismissal through failure to pay notice pay succeeds for which the Respondent shall pay the Claimant: **£4,019.88** net. (calculated as 12 (weeks) x £334.99 (net weekly pay)).

4. The Claimant's claim for outstanding holiday pay succeeds for the period of 1<sup>st</sup> August 2020 to 2<sup>nd</sup> September 2020 and one day outstanding which had been carried over from the previous year (the Claimant having been paid up until 31<sup>st</sup> July 2020) for which the Respondent shall pay the Claimant **£139.34 net**.
  
5. The Respondent failed to pay the Claimant his wages for the period of 31<sup>st</sup> July through to 2<sup>nd</sup> September 2020 (the period for which the Tribunal has determined the Claimant remained employed) and therefore his claim succeeds for which the Respondent shall pay to the Claimant the sum of **£1,540.77 net**. That being calculated as 23 days (the number of working days for 31<sup>st</sup> July to 2<sup>nd</sup> September inc.) x £66.99 (net daily pay £334.99/ 5) = 1540.77 net.
  
6. The total sum therefore payable to the Claimant under this Judgement is **£10,487.87 net**.

Recoupment

7. The Recoupment Regulations 1996 apply to the above awards. The information required by Regulation 4 (see also the Annex to this Judgment) is as follows:

(a)	Monetary Award	<b>£4,787.88</b>
(b)	Prescribed Element	£4,287.88.
(c)	Dates of the periods to which the Prescribed Element is attributable 1 <sup>st</sup> December 2020 to 1 <sup>st</sup> March 2021	
(d)	The amount by which the Monetary Award exceeds the Prescribed Element is	£500.00

Employment Judge Lang  
Date: 07 June 2023  
Judgment sent to the Parties on 20 June 2023

For the Tribunal Office

Note

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.

**ANNEX TO THE JUDGMENT  
(MONETARY AWARDS)**

Recoupment of Jobseeker's Allowance, Income-related employment and support allowance or Universal Credit

The following particulars are given pursuant to the Employment Protection (Recoupment of Jobseekers Allowance and Income Support) Regulations 1996, SI 1996 No 2349, Reg 4.

The Tribunal has awarded compensation to the claimant, but not all of it should be paid immediately. This is because the Secretary of State has the right to recover (recoup) any Jobseeker's Allowance and other specified allowances paid to the claimant after dismissal in respect of the compensatory award for unfair dismissal. This will be done by way of a Recoupment Notice, which will be sent to the respondent usually within 21 days after the Tribunal's judgment was sent to the parties.

The Tribunal's judgment states: (a) the total monetary award made to the claimant; (b) an amount called the prescribed element, if any; (c) the dates of the period to which the prescribed element is attributable; and (d) the amount, if any, by which the monetary award exceeds the prescribed element. Only the prescribed element is affected by the Recoupment Notice and that part of the Tribunal's award should not be paid until the Recoupment Notice has been received.

**The difference between the monetary award and the prescribed element is payable by the respondent to the claimant immediately.**

When the Secretary of State sends the Recoupment Notice, the respondent must pay the amount specified in the Recoupment Notice to the Secretary of State. This amount can never be more than the prescribed element of any monetary award. If the amount is less than the prescribed element, the respondent must pay the balance to the claimant. If the Secretary of State informs the respondent that it is not intended to issue a Recoupment Notice, the respondent must immediately pay the whole of the prescribed element to the claimant.

The claimant will receive a copy of the Recoupment Notice from the Secretary of State. If the claimant disputes the amount in the Recoupment Notice, the claimant must inform the Secretary of State in writing within 21 days. The Tribunal has no power to resolve such disputes, which must be resolved directly between the claimant and the Secretary of State.