



EMPLOYMENT TRIBUNALS

Claimant: Mrs Patricia Simm

Respondent: The High Street Surgery

Heard at: Watford Employment Tribunal
On: 15-16 August 2023, 17-18 August 2023 (deliberations and judgment)

Before: Employment Judge Young
Members: Ms S Williams
Mr R Allan

Representation

Claimant: Litigant in Person

Respondent: Mr Peter Collins (Senior Litigation Consultant)

JUDGMENT

It is the unanimous decision of the Tribunal

1. The Claimant's claim that she been constructively unfairly dismissed under section 95 Employment Rights Act 1996 is well founded and succeeds.
2. The Claimant is awarded £5687.21 in compensation for unfair dismissal.
3. The Employment Protection (Recoupment of Benefits) Regulations 1996, SI 1996/2349, apply to the award made under section 123 of the ERA 1996. The monetary award for that purpose made to the Claimant is £5687.21. The prescribed element is £1,978.65. The dates of the period to which the prescribed element is attributable are 25 November 2021 to 18 August 2023. The monetary award exceeds the prescribed element by £3,708.56.
4. The Claimant's was not treated less favourably by the Respondent because of disability. The claim for direct discrimination because of disability under section 13 Equality Act 2010 is not well founded and is dismissed.

5. The Claimant claim for disability discrimination under section 21 Equality Act 2010 is not well founded and is dismissed.
6. The recoupment particulars are annexed to this judgment.

Employment Judge Young

Date 18 August 2023

JUDGMENT SENT TO THE PARTIES ON

3 October 2023

FOR THE TRIBUNAL OFFICE

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.

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

Claimant **Mrs Patricia Simm**
Respondent **High Street Surgery**

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

Recoupment of Benefits

The following particulars are given pursuant to the Employment Protection (Recoupment of Benefits) Regulations 1996, SI 1996 No 2349.

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, income-related employment and support allowance, universal credit or income support paid to the Claimant after 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.