# EMPLOYMENT TRIBUNALS

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| **Claimant:** | Miss Megan Clark |
| **First Respondent:** | BW Gardening Ltd |
| **Second Respondent:** | Baaj Capital LLP |

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| **Heard at:** | Birmingham (by CVP) | **On:** | 16 November 2023 |
| **Before:** | Employment Judge Childe | | |

**REPRESENTATION:**

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| **Claimant:** | In person |
| **Respondents:** | No attendance |

# JUDGMENT

The judgment of the Tribunal is as follows:

## First Respondent

1. The first respondent shall pay compensation to the claimant of **£23,100.95** made up as follows:

    a.  A basic award for unfair dismissal of £125

    b.  A compensatory award for unfair dismissal of £500

    c.  Compensation for holiday pay of £625

   d. Compensation for unlawful discrimination, inclusive of interest, of £21,850.95.

2. The recoupment provisions do not apply.

## Second Respondent

3. The claimant's claims against the second respondent are not well founded, as the claimant was not:

   a. an employee of the second respondent within the meaning of section 230 of the Employment Rights Act 1996;

   b. an employee of the second respondent within the meaning of section 83 of the Equality Act 2010;

   c. a worker of the second respondent within the meaning of section 230 of the Employment Rights Act 1996.

4. All claims against the second respondent are therefore dismissed.

## Holiday Pay

5. The complaint in respect of holiday pay is well-founded. The first respondent failed to pay the claimant in accordance with regulation 14(2) and/or 16(1) of the Working Time Regulations 1998.

6. The first respondent shall pay the claimant **£625**. The claimant is responsible for paying any tax or National Insurance.

## Pregnancy and maternity discrimination

7. The complaint of discrimination by the first respondent against the claimant in the protected period in relation to a pregnancy is well-founded and succeeds.

## Discriminatory dismissal

8. The complaint that the first respondent discriminated against the claimant by dismissing her is well founded and succeeds.

## Unfair Dismissal

9. The complaint of unfair dismissal is well-founded. The claimant was automatically unfairly dismissed by the first respondent for reasons connected with pregnancy, as defined in section 99 Employment Rights Act 1996.

10. There is no chance that the claimant would have been fairly dismissed in any event.

11.    The ACAS Code of Practice on Disciplinary and Grievance Procedures 2015 does not apply.

12.    The claimant did not cause or contribute to her dismissal by blameworthy conduct and it is not just and equitable to reduce the compensatory award payable to the claimant.

## Remedy for Unfair Dismissal

13.    The respondent shall pay the claimant the following sums:

(a)    A basic award of **£125**.

(b)    An amount of **£500** for loss of statutory rights.

## Remedy for Unlawful discrimination

14.    The respondent shall pay the claimant the following sums:

a.    Compensation for past financial losses:                    **£9,408.35**;

b.    Interest on compensation for past financial losses calculated in accordance with the Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996:                    **£362.93**

c.    Compensation for future financial losses:                    **£6,695.01**;

d.    Compensation for injury to feelings:                    **£5,000**;

e.    Interest on compensation for injury to feelings calculated in accordance with the Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996:                    **£384.66**.

**Employment Judge Childe**
**16 November 2023**

**Note**
Reasons for the judgment were given orally at the hearing. Written reasons will not be provided unless a party asked for them at the hearing or a party makes a written request within 14 days of the sending of this written record of the decision.

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Judgments (apart from judgments under rule 52) 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.