



EMPLOYMENT TRIBUNALS

Claimant: Mrs E Whymark

Respondent: CHC Accountancy Ltd t/a Clemence Hoar Cummings

Heard at: East London Hearing Centre

On: 15, 16 and 17 November 2023

Before: Employment Judge Volkmer

Representation

Claimant: Mr Pickett (Counsel)

Respondent: Mr Gray (Solicitor)

JUDGMENT

1. The complaint in respect of holiday pay is not well-founded and is dismissed.
2. The complaint of breach of contract in relation to notice pay is well-founded.
3. The Respondent shall pay the Claimant **£2,287.02** as damages for breach of contract. This figure has been calculated using gross pay to reflect the likelihood that the Claimant will have to pay tax on it as Post Employment Notice Pay.
4. The complaint of unfair dismissal is well-founded. The Claimant was unfairly dismissed.
5. The Respondent unreasonably failed to comply with the ACAS Code of Practice on Disciplinary and Grievance Procedures 2015 and it is just and equitable to increase the compensatory award payable to the claimant by **15%** in accordance with s 207A Trade Union & Labour Relations (Consolidation) Act 1992.
6. The Respondent shall pay the Claimant the following sums:
 - a. a basic award of **£3,430.53**; and
 - b. a compensatory award of **£1,371.03**.

**Case Numbers: 3205514/2022
3200229/2023 & 3200325/2023**

7. Note that these are actual the sums payable to the Claimant after any deductions or uplifts have been applied.

Employment Judge Volkmer

20 November 2023

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.

Public access to employment tribunal decisions

All judgments (apart from judgments under Rule 52) and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.

Schedule

1. Details

Date started employment:	06/04/2016
Effective date of Termination (“EDT”):	18/11/2022
Age at effective EDT:	53
Net weekly basic pay:	£256.38
Gross weekly basic pay:	£381.17
Contractual notice period:	6 weeks
Statutory notice period:	6 weeks
Complete years’ continuous service:	6 years
Remedy hearing date	17/11/2023
Date by which employer should no longer be liable	29/12/2023

2. Basic award

1.5 (relevant multiplier) x 6 (years’ service) x £381.17 (gross weekly pay):	£3,430.53
Total basic award	£3,430.53

3. Damages for wrongful dismissal

Loss of earnings	£2,287.02
Damages period (6 weeks up to and including 29 December 2022) x gross weekly pay (£381.17 ¹):	
Total damages	£2,287.02

4. Compensatory award

Loss of net earnings	£1,192.20
Number of weeks (12 weeks) x weekly statutory sick pay of £99.35 ² :	
Total Past losses:	£1,192.20

¹ Please note that this was incorrectly calculated on a net basis during the hearing, and is corrected here as a gross calculation.

² Had the Claimant not been injured and therefore unfit to work, the Employment Tribunal determined that it would have awarded a compensatory award comprising her full salary and pension entitlement from 30 December 2022 to 29 December 2023.

Increase in compensatory award due to Respondent's unreasonable failure to comply with the Acas Code 15% x £1,192.20 ³ :	£178.83
Total Compensatory Award	£1,371.03
Statutory cap (not applied):	£19,820.84
GRAND TOTAL:	£7,088.58

³ This was incorrectly stated at the hearing to properly apply to the basic award and wrongful dismissal award, when the uplift only applies to the compensatory award. This has been corrected by the Employment Judge. **NB:** Had the Claimant not been injured and therefore unfit to work, the Employment Tribunal determined that the 15% uplift would have applied to the entire compensatory award comprising her full salary and pension entitlement from 30 December 2022 to 29 December 2023.