



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss Carley Turner

**Respondent:** (1) Ms Keeley Mardon and (2) Ms Christina Sellwood  
(each sued on their own behalf and on behalf of all members of the committee of trustees of Monkton Under 5 Playgroup between 14 August 2020 and 24 September 2021)

**Heard at:** London South Employment Tribunal (by video)  
**On:** 6-7 December 2023

**Before:** Employment Judge Abbott, Mrs L Lindsay and Mr R Singh

## Representation

Claimant: in person

Respondent: not in attendance and not represented

# JUDGMENT

The unanimous decision of the Tribunal is that:

1. The claimant was unfairly dismissed.
2. Monkton Under 5 Playgroup discriminated against the claimant, contrary to section 15 of the Equality Act 2010, by:
  - a. In December 2020 the Playgroup Manager (Ms Norris) and the first respondent informing the claimant that they had not been able to open the nursery for 3 weeks and this was her fault;
  - b. From 20 May 2021 subjecting the claimant to a disciplinary / absence management process;
  - c. On 25 May 2021 refusing or failing to provide the claimant with the answers and help she requested;
  - d. On 1 June 2021 subjecting the claimant to a disciplinary / absence management hearing and the conduct of that hearing;
  - e. On 14 June 2021 subjecting the claimant to a disciplinary / absence management hearing and the conduct of that hearing;
  - f. Dismissing her; and
  - g. On 24 September 2021 dismissing her appeal against dismissal.
3. Monkton Under 5 Playgroup discriminated against the claimant, contrary to section 21(2) of the Equality Act 2010, by failing to make the following reasonable adjustments:

- a. Having at least 3 staff (including the claimant) on duty in the setting when the claimant was working;
  - b. Putting a care plan in case in respect of the claimant; and
  - c. Implementing intermittent breaks during the day for staff, a protected lunch break and lunch to be had away from the setting
4. Monkton Under 5 Playgroup shall pay compensation to the claimant of **£25,338.65** (with a further sum of **£2,337.71** forming part of the monetary award but subject to a stay of enforcement due to recoupment provisions – see below), made up as follows:
- a. A basic award for unfair dismissal of **£267.30**;
  - b. A compensatory award for unfair dismissal and discrimination of **£5,143.72 plus £2,337.71** (inclusive of an uplift of 20% pursuant to section 207A of the Trade Union and Labour Relations (Consolidation) Act 1992);
  - c. Interest on b. at the rate of 8% from the date halfway between dismissal and today, in the sum of **£510.71**;
  - d. Compensation for injury to feelings resulting from discrimination of **£16,200.00** (inclusive of an uplift of 20% pursuant to section 207A of the Trade Union and Labour Relations (Consolidation) Act 1992); and
  - e. Interest on d. at the rate of 8% from the date of dismissal to today, in the sum of **£3,216.92**.
5. The complaint of unlawful deductions from wages is dismissed upon withdrawal.
6. The Employment Protection (Recoupment of Benefits) Regulations 1996 apply:
- a. The total monetary award made to the claimant is £27,676.36;
  - b. The prescribed element is £2,337.71;
  - c. The dates of the period to which the prescribed element is attributable are 21 July 2021 to 14 June 2022;
  - d. The amount by which the monetary award exceeds the prescribed element is £25,338.65.

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**Employment Judge Abbott**  
**Date: 07 December 2023**

**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.

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**Recording and Transcription**

Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>

**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.