



EMPLOYMENT TRIBUNALS

Claimant: Mrs P Boonpheng

Respondent: J Line Hospitality t/a Lemongrass

Heard at: London South Croydon in public by CVP

On: 9 January 2024

Before: Employment Judge Tsamados (sitting alone)

Representation

Claimant: Mr C Chanchan, the Claimant's husband (and the Claimant)

Respondent: Response not received, did not attend and was not represented

JUDGMENT

Liability

- 1) The Claimant was automatically unfairly dismissed, the Respondent having not shown a potentially fair reason for her dismissal;
- 2) The Claimant was not given notice of her dismissal;
- 3) The Claimant was not paid her accrued but untaken annual leave;
- 4) The Respondent did not make payment of any pension contributions to the Claimant's Nest workplace pension scheme for the period 15 September 2022 until 4 May 2023.

Remedy

The Respondent must pay the Claimant the following amounts of compensation/damages:

Unfair dismissal

Basic Award

1. Based on 3 complete years of service (from start date of 19 July 2019 to the effective date of dismissal of 4 May 2023), aged 66 (DOB 03/11/1956), gross weekly pay of £502 and a multiplier of 1.35.
2. $3 \times 1.5 \times £502 = £2,259$.

Compensatory Award

Past loss of earnings

3. I award past loss of earning from 5 May 2023 (the day after the date of dismissal) to 9 January 2024 (the date of this hearing), a period of 35.5 weeks but discounting 4 weeks given the separate award of damages of failure to give notice and based on net weekly pay of £497.92.
4. $31.5 \times £497.92 = £15,684.48$.
5. Less earnings from new employment from 2 June 2023 to 9 January 2024 at £248 per week net, a period of 31 weeks.
6. $31 \times £248 = £7,688$.
7. $£15,684.48 \text{ less } £7,688 = £7,996.48$.

Pension loss

8. The Claimant had a Nest workplace pension scheme to which she contributed 5% of her gross weekly pay and the Respondent contributed 3% of her gross weekly pay (a combined total of 8%). I therefore award pension loss for the period of 35.5 weeks at 8% of her gross weekly pay.
9. $8\% \text{ of } £502 \times 35.5 = £1425.68$

Loss of statutory rights

10. £500

Future loss

11. The Claimant has been working part-time since 2 June 2023. She decided to work part-time in view of her age. I determined in the circumstances that it was not appropriate to make any award for future loss.

Total award for unfair dismissal

12. The total award of compensation for unfair dismissal is $£2,259 + £7,996.48 + £1425.68 + £500 = £12,181.16$.

Notice pay

13. The Claimant was entitled to 4 weeks' notice of dismissal. She was dismissed on 4 May 2023 without notice. I therefore award her damages of 4 x £502 gross weekly pay = £2,008.

Holiday pay

14. The Claimant was entitled to 5 weeks' annual leave per year, which the Respondent paid as 1 weeks' pay every 10 weeks. She last received holiday pay on 5 April 2023 and calculates that she had worked 7 weeks beyond that date by the time of her dismissal. I therefore award her 70% of £502 gross weekly pay as her outstanding entitlement to accrued annual leave = £351.40.

Pension contributions

15. The Respondent did not make over the pension contributions it deducted from the Claimant's wages to the Nest workplace pension scheme from 15 September 2022 to 4 May 2023. This is a period of 33 weeks. I therefore award her damages of £1325.28 (33 x 8% of £502 gross weekly pay).

Grand total

16. The total award of compensation/damages is £15,865.94.

Employment Judge Tsamados
9 January 2024