



EMPLOYMENT TRIBUNALS

Claimant: Ms M Fitzgerald

Respondent: Cherry Orchards Care Ltd

Heard at: Bristol (in person)

On: 2 April 2024

Before: Employment Judge Cuthbert

Appearances:

For the Claimant: In person

For the Respondent: Did Not Attend

REMEDY JUDGMENT

1. The claimant's claims of automatically unfair dismissal and detriment on the grounds of protected disclosures succeeded (see separate Rule 21 judgment).
2. The claimant is awarded **£14,233.32** by way of a compensatory award for unfair dismissal (net loss of earnings for the period from 14 January 2021 until 23 July 2023), pursuant to section 123 of the Employment Rights (see **schedule** for summary of calculations).
3. The claimant is awarded **£8,000** for injury to her feelings in respect of the detriment claim.
4. The Employment Protection (Recoupment of Benefits) Regulations 1996, SI 1996/2349, apply to the award made under section 123 of the ERA 1996. The total monetary award made to the Claimant is **£22,233.32** and the prescribed element is **£14,233.32**. The dates of the period to which the prescribed element is attributable are 14 January 2021 to 23 July 2023. The monetary award exceeds the prescribed element by £8,000.
5. The recoupment particulars are attached to this judgment.

Case No: 1401992/2021

Employment Judge Cuthbert

Date: 2 April 2024

JUDGMENT SENT TO THE PARTIES ON
16 April 2024 By Mr J McCormick

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.

Schedule – summary loss of earnings calculations

1. Net losses for the period 14 January 2021 – 7 February 2021 (claimant unemployed):
£1,134.60

2. Net losses for the period 8 February 2021 – 23 July 2023:
 - a. Assumed net earnings with Greenfield in period: £51,618.56
 - b. Less net earnings from temporary employment:
 - Provide: £4,551.75
 - Midway: £11,522.38
 - LTT: £3,742.81
 - Supply Room: £1,530
 - Agency work (term-time): £17,172.90
 - Total: £38,519.84

Net loss in period: **£13,098.72**

Claimant **Ms M Fitzgerald**
Respondent **Cherry Orchards Care Ltd**

**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.