EMPLOYMENT TRIBUNALS

Claimant: **Miss K Harris**

Respondent: **Sai Prasanna Ltd T/A Papa Johns**

Heard at: **East London Hearing Centre (by CVP)**

On: **26 June 2024**

Before: **Tribunal Judge D Brannan acting as an Employment Judge**

Representation
Claimant: Representing herself
Respondent: Mr Ashfaq, Area Manager

JUDGMENT having been sent to the parties on 8 July 2024 and reasons having been requested in accordance with Rule 62(3) of the Rules of Procedure 2013.

REASONS

1. At the hearing I gave remedy judgment that the respondent must pay £5,684 to the claimant as the remedy for her unfair dismissal claim and there is no separate remedy for disability discrimination. I gave oral reasons for this at the hearing. My judgment was sent to the parties on 8 July 2024. The respondent applied for written reasons on 12 July 2024 which I am now providing.

2. The claimant originally claimed unfair dismissal and disability discrimination.

3. A hearing was due to take place on 29 Janaury 2024. On 29 January 2024 a solicitor called Prathap Appavu of Aramm Legal Ltd wrote to the Tribunal saying:

> *Our client, M/s Sai Prasana Ltd T/A Papa John, has informed us that they will represent themselves in the hearing. Consequently, we will not be appearing on their behalf before the tribunal. We regret the late notice.*

4. The hearing was actually cancelled because in a judgment dated 29 January 2024, Regional Employment Judge Burgher decided liability in the claimant's favour under rule 21 of the Rules of Procedure and said:

The claim succeeds and the remedy to which the claimant is entitled will be determined at a Remedy Hearing.

5. On 1 March 2024, Mr Ashfaq wrote to the Tribunal by email saying:

Good afternoon

I am the respondent i had court hearing online on 29 jan 2024 somehow it didnt happened as i was online and no one came later i findout judge didnt give me right to defend my case so i am still waiting for the outcome can you please update me as i havent received any letter from court Thanks Sent from my iPhone

6. On 1 April 2024 the Tribunal sent notice to both parties of the remedy hearing to take place on 26 June 2024.

7. On 24 June 2024 the Tribunal wrote to the parties regarding the email of 1 March 2024 saying:

Regional Employment Judge Burgher has directed me to write to the parties as follows:

Application for reconsideration of rule 21 judgment is refused. Made out of the 14-day time period and not in the interest of justice

8. The effect of this was that the rule 21 judgment remained effective by the hearing before me and the respondent was consequently entitled to participate in any hearing to the extent permitted by me. I explained this to Mr Ashfaq and limited his participation to discussing issues of remedy. He was clear that his main complaint related to liability, over which I had no remit.

9. The hearing took place and was recorded over the Cloud Video Platform ("CVP"). The hearing was initially due to begin at 10am. Mr Ashfaq initially joined by telephone. We agreed to postpone the start to allow Mr Ashfaq time to consider the claimant's schedule of loss and get to a location where he could join by video.

10. When we reconvened both parties were connected by video. We discussed a number of matters arising from the claimant's schedule of loss. Importantly amongst these were that:

(a) Mr Ashfaq agreed the length of service and weekly earnings of the claimant.

(b) The claimant was now studying so she had not sought alternative employed during the daytime. She also could not claim benefits for this reason. She was receiving student loans, but as these need to be repaid, there was no reason to take them into account in calculating remedy.

(c) Mr Ashfaq conceded the difficulty getting employment as a delivery driver in Southend-on-Sea (as opposed to working for Deliveroo or Just Eat as a freelance delivery driver).

(d) The claimant did work as a freelance delivery driver outside her working hours with the Respondent. She continued this work after dismissal. There was no increase in income from this work since her dismissal. It therefore had no bearing on the amount of compensatory award.

(e) The claimant had driven to other areas to look for alternative employment, which was the source of the claim of £40 for fuel.

11. The calculation I made was as follows:

Characteristics	
Weekly Rate	£186
Years of Service	2
Age at Termination	21
Basic Award (0.5 x 2 x 186)	**£186**
Compensatory Award	
Weeks of unemployment claimed	28
Expenses to find new employent – fuel	£40
Loss of statutory employment rights	£250
Total Compensatory Award (28 x 186 + 40 + 250)	**£5,498**
Total Award	£5,684

12. I found the period of 28 weeks of not having alternative employment to be reasonable in the particular circumstances of the claimant needing to work in the evenings and such jobs having limited availability.

13. I made no award due to breach of the ACAS code of practice because the dismissal was not clearly conduct related. It could have been for some other substantial reasons due to breakdown of the coworker relationship. It was not suggested that the claimant would have been fairly dismissed anyway, however, resulting in a Polkey deduction (Polkey v A. E. Dayton Services Limited [1987] UKHL 8).

14. While giving judgment the claimant raised disability. I told her that if this were to be reopened at that stage, it would necessitate an adjournment. I particularly had in mind that the disability claim had no particulars in the ET1 so I had no basis on which to make an award. Furthermore, the schedule of loss form that the claimant had completed asked about compensation for discrimination. The claimant did not seek any compensation when completing the form. As a result the respondent would need time to respond and I would need time to consider such a claim. There was insufficient time left during the hearing. The claimant agreed she did not want to delay proceedings by pursuing this matter further.

15. Finally, I note that Mr Ashfaq raised issues about not having received post therefore limiting the respondent's ability to participate in the case. Mr Ashfaq has never explained these issues in writing. It is the responsibility of a prudent business to be able to receive service of documents. Following the hearing I arranged for Mr Ashfaq's email address to be used for correspondence from the Tribunal in this case. There appears to have been no request for the Tribunal to correspond by email prior to this. The obvious opportunity for the

respondent to have said this would have been when filing an ET3, which it never did.

Tribunal Judge D Brannan acting as an Employment Judge
Dated: 22 July 2024