



# EMPLOYMENT TRIBUNALS

BETWEEN

**Claimant**

Mrs Jasmin Coaker

AND

**Respondent**

Planet Moto Limited

## JUDGMENT OF THE EMPLOYMENT TRIBUNAL

**HELD REMOTELY**  
**BY CVP Video**

**ON**

11 October 2024

**EMPLOYMENT JUDGE** N J Roper

### Representation

**For the Claimant:** Miss B Clayton of Counsel

**For the Respondent:** Mr M Flint, Managing Director

### JUDGMENT ON REMEDY

The judgment of the tribunal is that:

- 1 The respondent is ordered to pay the claimant compensation for unfair dismissal in the sum of £19,476.38. The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 do not apply in this case; and
2. The respondent is ordered to pay the claimant damages for breach of contract in the net sum of £1,840.00 in respect of four weeks' notice; and
3. The respondent is ordered to pay the claimant £26,550.00 gross in respect of unlawful deductions from wages; and
4. The respondent is ordered to pay the claimant accrued but unpaid holiday pay in the gross sum of £6,160.00; and
5. The respondent failed to provide the claimant with a statement of initial employment particulars and it is ordered to pay the claimant two weeks' gross pay the in sum of £1,100.00.

## **RESERVED REASONS**

1. This judgment explains the remedy awarded to the claimant following judgment in her favour under Rule 21 for liability only dated 18 July 2024 (“the Judgment”).
2. This has been a remote hearing which has been consented to by the parties. The form of remote hearing was by Cloud Video Platform. A face-to-face hearing was not held because it was not practicable, and all issues could be determined in a remote hearing. The documents that I was referred to are in a bundle of 104 pages, the contents of which I have recorded.
3. The Background:
4. Mr Max Flint is the sole director and shareholder of the respondent company. The claimant Mrs Jasmin Coaker is his estranged wife. There was what could be loosely termed a joint-venture in their business and/or quasi-partnership between them. The breakdown of their relationship has been acrimonious, and there have been other matrimonial proceedings. The claimant also issued these proceedings, effectively claiming that she worked for over four years for the respondent company, but never received any payment. The respondent failed to enter a response and the Judgment has been entered under Rule 21 in favour of the claimant in respect of a number of monetary claims.
5. The Evidence:
6. As noted above, the parties have produced a bundle of relevant documents. This bundle includes a statement of evidence from both the claimant, and from Mr Flint on behalf of the respondent.
7. Rule 21 (3) provides: “The respondent shall be entitled to notice of any hearings and decisions of the Tribunal but, unless and until an extension of time is granted, shall only be entitled to participate in any hearing to the extent permitted by the judge.”
8. I decided that it was in the interests of justice to allow Mr Flint to ask questions of the claimant in respect of each of the separate monetary claims if he wished to do so. However, I did not allow Mr Flint to reopen any matters relating to liability which has already been determined in the Judgment, and for the record the respondent has repeatedly failed to comply with earlier tribunal orders with regard to the disclosure of the relevant evidence to determine potential remedy. Although some itemised payslips have very recently been disclosed, the claimant disputes that these are accurate and disputes that they were ever given to her. The respondent has been unable to adduce the normal records which one would expect to see from an employer faced with such a claim, namely records of payments made, payslips, HMRC forms, and company accounts showing payments to employees, and which were consistent in that they independently supported the payments said to have been made. The respondent has lately tried to adduce some of these, but they are inconsistent. The respondent has also sought to argue that the claimant was somehow paid through a Post-Office travel card belonging to the respondent, and although the claimant accepts that some expenses were paid using this card when abroad, there is no clear record of what payments have been made, or when, and no record of payments which are consistent with any of the required statutory documents. For these reasons I prefer the evidence of the claimant.
9. The Relevant Rates of Pay:
10. An important starting point to determine the appropriate remedy for the claimant is of course the relevant rates of pay. The claimant has submitted a Schedule of Loss which explains the claims in detail. This suggests that during the relevant weekly periods the claimant has worked way in excess of the normal 40 hour working week. Some weeks she has claimed at 40 hours, but many other weeks have been claimed in excess of 100 hours. In the context of what could be loosely termed a joint-venture and/or quasi-partnership between previous husband and wife, I am unable to accept that the claimant worked the excessive hours which she claims for the respondent. The claim has arguably been exaggerated in the context of the matrimonial dispute.
11. Be that as it may, I do accept that the claimant worked long hours for the respondent company, particularly when abroad. I think it is proportionate to find that the claimant

- worked on average 50 hours per week, and that her claims should be based on that starting point. She was of course entitled to be paid at least the national minimum wage, which the schedule of loss notes was £8.91 per hour until 28 September 2022 when it became £9.50 per hour. On 3 April 2023 it was increased to £10.42 per hour. For these reasons I determine that the claimant's weekly pay was £450.00 per week gross until 28 September 2022 (based on £9.00 per hour for 50 hours); £500.00 per week gross thereafter until 3 April 2023 (based on £10.00 per hour for 50 hours); and £550.00 per week gross thereafter (based on £11.00 per hour for 50 hours).
12. Tax and National Insurance would have been payable on these gross figures. In the absence of the actual figures, it is likely that at least £3,000 would have been deducted in tax and National Insurance each year. For £450.00 gross per week the net pay would be about £390.00 per week net. For £500.00 gross per week it would be about £425.00 net, and for £550.00 per week it would be about £460.00 net per week.
  13. I accept that these figures are estimates. However, based on the evidence which I have heard, the documents which I have seen, and against the context of the dispute between the parties, I find that these are the relevant rates of pay which the respondent should have paid the claimant at the relevant times.
  14. The claimant expressly agreed these rates, and also agreed that they should be applied to her claims.
  15. Unfair dismissal
  16. The claimant was unfairly dismissed. She was born on 5 December 1992 and worked for four complete years until her dismissal on 21 August 2023. Her basic award amounts to (4 x £550.00) which is £2,200.00.
  17. The compensatory award is calculated as follows. First, I award £400 for loss of statutory rights. Apart from the alternative sums received by way of mitigation and discounted below, the claimant was unable to find alternative employment after her dismissal, and her net loss from dismissal to the date of this tribunal is £27,140.00 being 59 weeks at £460.00 net per week. The respondent failed to pay the minimum pension requirements of 3% of gross salary during this period which is a further £973.50. The claimant has now obtained alternative employment and claims 13 weeks of future loss at the differential between her old net salary and her new net salary, which is £25.00 per week, or a further £325.00 net. This is a subtotal of £28,838.50. The claimant also gives credit for other payments received by way of mitigation in the sum of £11,562.12. The total compensatory award is therefore £17,276.38. Together with the basic award the total award for unfair dismissal is £19,476.38.
  18. The claimant did not claim any benefit and the Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 do not apply in this case.
  19. Breach of Contract
  20. The claimant has succeeded in her claim for breach of contract in respect of four weeks' notice. Four weeks' net pay amounts to £1,840.00 and the respondent is ordered to pay the claimant the net sum of £1,840.00 in this regard.
  21. Accrued but Unpaid Holiday Pay:
  22. The claimant's claim is limited to the last two years of employment preceding the date of issue these proceedings which is two years at 5.6 weeks, or otherwise 11.2 weeks' pay at £550.00 gross per week. The respondent is ordered to pay the claimant the sum of £6,160.00 gross for accrued but unpaid holiday.
  23. Failure to Provide Statement of Initial Employment Particulars:
  24. Under section 38 of the Employment Act 2002, if the employer was in breach of his duty to give a written statement of initial employment particulars and the employment tribunal finds in favour of the employee or makes an award to the employee, then the tribunal must increase the award by an amount equal to two weeks' pay, and may, if it considers it just and equitable in all the circumstances, increase the award by four weeks' pay instead.
  25. At the outset of the employment relationship the parties were effectively in a joint venture and were happy to continue without the necessary employment documentation. I see no reason to suggest that it would be just and equitable to increase this award from the basic

award of two weeks. I therefore order that the respondent to pay the claimant two weeks' gross pay in the sum of £1,100.00.

26. Failure to Allow Rest Breaks:
27. Under Regulation 30 of the Working Time Regulations 1998, the tribunal can make an award if it considers it to be just and equitable of the circumstances. Given that this was a joint venture which then led to an unhappy breakdown in the marital relationship, and given the above awards already made, I do not consider it just and equitable to award any further compensation in respect of the absence of rest breaks. No award is made in this respect.
28. Failure to Provide Itemised Pay Statements:
29. No award is sought in this respect, and none is made.
30. ACAS Uplift:
31. The claimant seeks an uplift of 25% on the amounts of the above compensation in respect of the respondent's failure to comply with the ACAS code. Again, given that this was a joint venture which then led to an unhappy breakdown in the marital relationship, and given the above awards already made, I do not consider it just and equitable to award any further compensation in respect of the alleged failure to comply with the ACAS Code.

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Employment Judge N J Roper  
Dated 11 October 2024

Judgment sent to Parties on  
25 October 2024 By Mr J McCormick

For the Tribunal Office

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