Case Number: 1401231/2024

EMPLOYMENT TRIBUNALS

Claimant: BN

Respondent: Wags and Whiskers Pet Hotel and Spa Ltd

Heard at: Southampton **On: 25 September 2025**

Before: Employment Judge Dawson

Appearances
For the claimant: Ms Booth
For the respondent: Mr Overs, consultant

REMEDY JUDGMENT

1. In respect of the claimant's injury to feelings, the respondent is ordered to pay the claimant the sum of £10,000 plus interest of £1323.84

2. In respect of the claimant's claim for loss of earnings, the hearing is adjourned generally.

3. The claimant must disclose to the respondent by seven days after the date when this order is sent to the parties, copies of any documentation relevant to her receipt of LCWRA benefit after 30 January 2024 including;

    a. her entitlement to that benefit,

    b. whether she would have been entitled to that benefit if she had not resigned from her apprenticeship,

c. the amount of benefit she has received up to 30 June 2025.

4. If neither party applies to reinstate the case within 35 days of the date when this judgment is sent to the parties the case will be dismissed on withdrawal without further order.

5. If either party applies to reinstate the case, the matter must be referred to Employment Judge Dawson for further directions.

REASONS

1. At a liability hearing in May 2025, I determined that the claimant had been discriminated against on the grounds of her disability and found the following claims proved:

    a. The claimant was discriminated against because of something arising in consequence of her disability in respect of the requirement for her to work for 8 days in a row.

    b. The respondent failed to make a reasonable adjustment in refusing to allow the claimant's request to take sick leave during the meeting on 30th January 2024.

    c. The claimant was harassed when she was told off for crying on the company's time and that she should stop upsetting everyone and get better.

    d. The claimant was harassed when she was refused sick leave in the meeting on 30th January 2024.

2. It is important to note that in the course of my judgment, in respect of subparagraphs (c) and (d) above I stated;

    > Thus I find this allegation is proved to the extent that in the meeting Mr Murphy refused to allow her to take sick leave and because of that she resigned from work. I do not find that the claimant has proved her case beyond that. I do not find any evidence of a decision which had already been made to dismiss the claimant prior to that meeting

3. I also held, reflecting all of the uncertainties as to the ongoing employment of the claimant with the respondent, that compensation would be awarded on the basis that there was a 50% chance that the claimant would have left her employment on 30 June 2024 and, therefore, compensation would be reduced to reflect that chance. In making that assessment I took account of the fact that the claimant might, in reality, have resigned before that date or after that date; she might have been fairly dismissed before or after that date, but that is the date which best does justice to the various possible alternatives.

4. The claimant does not seek losses beyond when the apprenticeship would have ended.

5. This is my decision on the remedy hearing.

Law

6. The Employment Tribunal Remedies Handbook 2025 – 2026 helpfully summarises the law in respect of remoteness of loss as follows "Causation and remoteness limit the damages available to a claimant; only those losses caused by the unlawful act will be recoverable, so for example where an individual would have lost their job at some point in any event, and if the discriminatory dismissal they have suffered has not altered their job prospects, the losses suffered after the date when the individual would have been dismissed anyway have not been caused by the discriminatory dismissal. Further, in the general law of tort losses that are too remote and unforeseeable will not be recoverable. However, in *Essa v Laing Ltd* [2004] ICR 746 the Court of Appeal held that this principle does not apply to all statutory torts including discriminatory harassment, such that any loss proved to flow directly from the discriminatory act will be recoverable. It may be that the principle applies to other forms of discrimination". In my judgment the principles in *Essa v Laing Ltd* apply to this case.

7. In terms of the *Vento* guidelines, the 'Presidential Guidance: Employment Tribunal Awards for Injury to Feelings and Psychiatric Injury Following *De Souza v Vinci Construction (UK) Ltd'*, 7th addendum updated the bands as follows for any claims on or after 6 April 2024:

    ● Upper Band: £35,200 to £58,700 (the most serious cases);

    ● Middle Band: £11,700 to £35,200 (cases that do not merit an award in the upper band); and

    ● Lower Band: £1,200 to £11,700 (less serious cases)

8. The general principles in relation to the appropriate award for injury to feelings are set down in *Prison Service v Johnson* [1997] IRLR 162 and include that;

    a. awards are compensatory and should be just to both parties. They should compensate fully without punishing the discriminator.

    b. Awards should not be too low, as that would diminish respect for the policy of the anti-discrimination legislation. Society has condemned discrimination and awards must ensure that it is seen to be wrong. On the other hand, awards should be restrained, as excessive awards could be seen as the way to untaxed riches.

c. Awards should bear some broader general similarity to the range of awards in personal injury cases – not to any particular type of personal injury but the whole range of such awards.

d. Tribunals should take into account the value in everyday life of the sum they have in mind, by reference to purchasing power or by reference to earnings.

e. Tribunals should bear in mind the need for public respect for the level of awards made.

Findings of Fact

9. The claimant's apprenticeship started on 27th November 2023. It ended on 30 January 2024 when the claimant resigned. Had the claimant not resigned, the apprenticeship would have finished on the 27 November 2025, it being a two-year apprenticeship. Those facts are not disputed and I find accordingly.

10. The claimant told me, and it not being challenged I accept, that had she completed her apprenticeship she would have ended up with a level 2 animal welfare qualification. When she resigned from her apprenticeship she went to college where she has gained a level 2 technical certificate in animal care. She anticipates being able to use that qualification to find a job although she has not done so yet. The qualifications are of the same status.

11. It appears from page 15 of the bundle that the claimant attended college between September 2024 and May 2025 to obtain her certificate in animal care and it was put to her, and she agreed, that the course ran for approximately 23 hours a week. I accept that evidence.

12. The claimant's working week with the respondent was, she says, 40 hours per week. The respondent has not called evidence to challenge that. The claimant was paid a minimum wage of £5.28 per hour and at 40 hours per week that would equate to £211.20 per week. That is the weekly wage that the claimant says she was in receipt of.

13. Mr Overs, for the respondent noted that if one multiplies £211.20 x 52 and divides the result by 12, one reaches a monthly pay of almost the same amount as the payslip in the bundle, namely £915.20 per month.

14. In those circumstances I see no reason to doubt the claimant's evidence that she worked 40 hours per week and received a weekly amount of £211.20 and I accept her evidence.

15. In April 2024, the claimant went back to her previous job waiting in a local restaurant/pub named The Rosewood. She worked there whilst she was at college and she has provided the following information to the tribunal as to her earnings. No challenge was made and, therefore, I accept that evidence. Her earnings to June 2025 are as follows:

Apr-24	£180.20
May-24	£347.09
Jun-24	£263.01
Jul-24	£22.82
Aug-24	£463.58
Sep-24	£672.33
Oct-24	£358.01
Nov-24	£511.89
Dec-24	£460.85
Jan-25	£267.54
Feb-25	£106.07
Mar-25	£147.79
Apr-25	£246.32
May-25	£215.49
Jun-25	£499.37

16. She told me that since June 2025 she has earned approximately £1500 per month because, once college finished, she has been able to work full-time. I accept that evidence. Thus it appears that any loss of earnings has been extinguished since June 2025.

17. The claimant says that on two occasions (although her witness statement only refers to one) she was working in the public house when Natalie Murphy, her husband and others from the respondent have been sitting in the pub by the kitchen and taken photos of her. She complained to her manager and they were asked to leave and they have made a formal complaint for being removed from the premises.

18. The claimant explains that the "whole experience" has negatively affected her mental health and continues to do so. This was her first experience of the workplace, and she describes struggling to stop crying and leave her bed. She said she hardly left her bed between January and April 2024. She describes not wanting to leave her job because she loved it and she had a genuine passion for her role as an animal care assistant. She talks about the fact that the job helped her and had a positive impact on her mental health.

19. Mr Overs suggested that it was not reasonable for the claimant to feel that way and in cross-examination he put to her that losing a dream job is not really an injury to feelings. It is, in his words, more of an aspirations issue- just because you have lost your dream job does not affect how you feel. It seemed to me that that line of cross-examination was somewhat wide of the mark. If somebody loses their dream job it is bound to affect the way they feel. So far as relevant to this issue, there is no real distinction between someone's aspirations being dashed and the way they would feel about that. I accept that the loss of the claimant's dream job did have an impact on her injury to feelings and that impact was substantial.

The Award for Injury to Feelings

20. I did not find all of the allegations of discrimination proved. In some respects, I found that the claimant had misinterpreted the things which were said to her. I only compensate the claimant for the allegations which I have found proved. I do not intend to give individual awards for each allegation, but it is necessary to reflect on each allegation in deciding the overall award for injury to feelings.

21. Requiring the claimant to work for eight days in a row would have been somewhat upsetting because the reason why she was asked to work for eight days in a row was to make up for the time she had lost due to her ill-health which was due to her disability. Nevertheless, it is far from the most serious type of discrimination and, of itself, would have been unlikely to have a very significant impact on the claimant's injury to feelings. The harassment of the claimant when she was told off for crying on the company's time and told that she should get better would have had a more significant impact on the claimant's feelings, but again it is far from the most serious kind of harassment. The refusal to allow the claimant to take sick leave led to her resignation and that is likely to have had the greatest impact on her feelings since that was what caused her to lose her job.

22. I indicated, in the course of hearing argument, that I did not consider that the actions in the public house would significantly impact the question of damages for injury to feelings given the relatively isolated nature of the occurrence and the fact that the owners of the public house were clearly supportive of the claimant. I have therefore not considered in any detail the extent to which the people who were in the pub were acting on the respondent's orders or were to be treated as its agents. I have not increased the damages because of that activity. Nevertheless, the respondent should understand that such behaviour is not acceptable and might amount to post termination victimisation. I do not express an opinion on the merits of any such claim, but to the extent that the respondent did cause individuals to take photographs of the claimant while she was working, it should not do so in the future. I make no other findings in this respect.

23. Weighing all the matters which I must, because this discrimination led to the loss of the claimant's employment, in my judgment it falls towards the top end of the lower Vento band and the appropriate award for injury to feelings is £10,000.

Financial losses

24. I accept that between 30 January 2024 and the end of June 2025 the claimant lost earnings as a result of her dismissal. That loss ceased at the end of June 2025 because the claimant was able to extinguish her losses through her work at the public house.

25. I do not accept the respondent's arguments that the claimant failed to mitigate her loss. As a consequence of resigning the claimant lost the ability to obtain a qualification through her apprenticeship. She is a young person with her future ahead of her. It was perfectly reasonable, indeed I find it was commendable, for the claimant to seek to gain the qualification that she needed by going back to college.

26. Moreover, it is entirely to the claimant's credit that she worked whilst at college. Many young people do not do so. The claimant did significant work which mitigated her loss and I find that she behaved entirely reasonably.

27. I do not find that there was a failure to mitigate in that the claimant did not obtain alternative employment between January and April 2024. It was bound to take the claimant a little time to reorientate herself and get back on her feet. The respondent must take the claimant as it finds her, she was a person who was vulnerable because of her mental health issues and the time it took was not surprising.

28. There was no failure to mitigate in this case.

29. I must remind myself that I have reduced the ongoing losses by 50% from 30 June 2024.

The Receipt of Benefits

30. The claimant has set out the benefits which she received at pages 19 and 20 of the bundle. She told the tribunal, and it was not disputed, that she received PIP payments both before and after the apprenticeship ended, in the same amount. In those circumstances I do not consider that is something the tribunal should take into account.

31. However, the position in respect of LCWRA was much more confused in the hearing. The recoupment regulations do not apply to claims under the Equality Act 2010. Thus, if the claimant received LCWRA payments after the termination of her apprenticeship, which she would not otherwise have been entitled to, she would need to give credit for those receipts.

32. The claimant says that she was entitled to those payments before her apprenticeship ended but she had simply not claimed to them. The respondent does not accept that evidence. There was insufficient evidence before the tribunal for any proper finding to be made and, although both sides indicated that the other was at fault, it seemed to me that both were equally at fault. The respondent had not made its position clear, but the claimant had not given sufficient disclosure for the respondent to analyse the position. No application for further disclosure had been made by the respondent.

33. In order to make as much progress as possible, I set out below the findings and calculations which I could make but further adjustment

might be needed to take account of the receipt of LCWRA benefits. The remedy hearing has, therefore, been adjourned on a part heard basis but I have made the findings that I can, in the hope that the parties will be able to resolve matters without needing a resumed hearing.

34. My findings are as follows.

35. Between 30 January 2024 and 30 June 2024 is a period of 22 weeks (rounding up from 21 weeks and five days). Thus the claimant's loss of earnings from the respondent is 22 x £211.20 = £4646.40. She must give credit for earnings in that period amounting to £790.30 and thus her loss is £3856.10

36. The period between 30 June 2024 and 30 June 2025 is a period of 52 weeks. The loss to the claimant in terms of earnings from the respondent for that period is £10,982.40 (52 x £211.20). She must give credit for her earnings at the public house of £3972.06 giving a net loss of £7010.34. For the reasons I gave in my earlier judgment that must be reduced by 50% to reflect the fact that there was a chance the claimant would have resigned from her apprenticeship in any event or been dismissed. Thus the loss is reduced to £3505.17.

37. Thus the total financial lost the claimant is £7361.27.

38. The claimant has claimed sums for a basic award but because she has not brought a claim of unfair dismissal she is not entitled to that award.

Interest

39. In addition to those sums the claimant is entitled to interest. She is entitled to interest at 8%, which has been the case since 2013.

40. The interest on injury to feelings runs from 30 January 2024 until today's date which is a period of 604 days. The amount of interest is, therefore, calculated by the sum =(604/365)*0.08*10,000= £1323.84.

41. The interest on financial damages runs, on a relatively rough and ready basis from the midpoint of the loss, being 302 days. Thus the calculation is =(302/365)*0.08*7361.27= £487.26.

Employment Judge Dawson

Date: 25 September 2025

JUDGMENT SENT TO THE PARTIES ON
20 October 2025

Jade Lobb
FOR THE TRIBUNAL OFFICE

Notes

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

Recoupment

The recoupment provisions do not apply to this judgment.