EMPLOYMENT TRIBUNALS

Claimant: T Plummer

Respondent: Lifeways Community Care Limited

Heard at: Watford (By CVP) **On: 8 June 2026**

Before: Employment Judge Skehan

Appearances
For the claimant: in person, assisted by Mr Palme
For the respondent: Mr Comb, counsel.

REMEDY JUDGMENT

1. Liability in this matter was determined by the Judgment sent to the parties on 25 July 2024. This Judgment relates to remedy for the well-founded constructive unfair dismissal claim only.

2. The respondent shall pay the claimant the following sums:
   2.1 A basic award of **£1390.32.**
   2.2 Loss of statutory rights of **£400**
   2.3 This basic award and loss of statutory rights award has been paid by the respondent.
   2.4 A compensatory award of **£24,098.88.**

3. **Note** that these are the actual the sums payable to the claimant after any deductions or uplifts have been applied.

4. The Employment Protection (Recoupment of Benefits) Regulations 1996 do not apply.

Reasons

1. The claimant was constructively unfairly dismissed with effect from 16 May 2023. I refer to the liability judgment and reasons sent to the parties on 26 July 2024.

2. The claimant confirmed that she does not wish the tribunal to consider possible reinstatement or reengagement . The calculation of the basic award in the sum of £1390.32 was agreed during the hearing of 16 September 2024.

3. There has been a delay in dealing with remedy in this matter as there was an initial stay of these proceedings agreed between the parties and thereafter there was an administrative error that required the hearing listed for 5 May 2026 to be relisted.

4. All parties attended today's hearing by video link. The claimant gave evidence under affirmation and was cross-examined. Both parties made written and oral submissions. This remedy judgment and oral reasons were provided to the parties at the conclusion of the hearing. Both parties requested written reasons.

5. I conclude that following her constructive unfair dismissal, the claimant sought to mitigate her loss and had registered online with 'Indeed'. The claimant continues to receive emails from 'Indeed' containing details of job vacancies.

6. The claimant secured a job with Tesco that commenced on 29 May 2023. She says that during the recruitment process she informed Tesco that she was restricted in her capability because of her injuries. She started work on the basis that they would, 'see how things went'. Her role in Tesco included stacking shelves and rotating stock. Initially she had been expected to move cages of stock however, this duty was removed from her as a reasonable adjustment by Tesco due to her physical inability to move cages. However, even with this adjustment, the claimant found the role to be heavy manual work. There were no other potential roles available, for example there were no vacancies for till work. The claimant resigned with immediate effect on 17 June 2023. Her resignation note states that she could not continue within this role as she was in too much pain and cannot move properly during or after a small shift and she cannot fulfil the required duties.

7. Mr Comb submits that there is no evidence before the tribunal in relation to potential overtime available or hours worked by the claimant. However in assessing the evidence before the tribunal I conclude it is likely that the claimant wanted to work. She took active steps to mitigate her loss. I find it most likely that the claimant worked within this role to the fullest extent that she reasonably

could and tendered her resignation as the particular physical aspects of this role caused her pain as she has said.

8. In total, the claimant worked at Tesco for 2.5 weeks. During this time she earned £778.53 gross. This is a weekly average pay of £311.41. This is significantly below the weekly pay the claimant received while working with the respondent of £463.44. On balance, I do not find that this work was equivalent to the work that the claimant carried out for the respondent. I note paragraph 13 of the liability judgment. The claimant should not be penalised for seeking alternative work stacking shelves in Tesco following her constructive unfair dismissal. This was not suitable work for the claimant when her physical restrictions were taken into account. I do not consider that the claimant's 2.5 weeks work for Tesco amounts to an equivalent permanent job or breaks the chain of causation in this matter. I find that the ongoing loss during this employment and following this employment to arise in consequence of the claimant's constructive unfair dismissal and be attributable to the respondent.

9. Following her resignation from Tesco, the claimant obtained employment with Weavers Close Limited (Weavers). This was catering/kitchen based work that the claimant found again through 'Indeed'. The claimant had undertaken kitchen work in the past believed that this may be easier physically than the Tesco role. The claimant also said in her evidence that she had unsuccessfully applied for care home work.

10. I accept the claimant's evidence that she was keen to work and did not wish to stay at home. I consider it likely that the claimant was taking every reasonable step to mitigate her loss. The claimant commenced work with Weavers shortly before 11 August 2023 and resigned from that position just before Christmas 2023. The claimant says that this work was very different to her work with the respondent. The claimant was required to be on her feet all the time. While Weavers also implemented a reasonable adjustment meaning the claimant did not need to move cages, she was required to lift boxes. The claimant was struggling with her health conditions. The claimant's evidence is that she tried to push herself to continue working however her health was deteriorating and she was forced to resign due to her ill-health.

11. The respondent notes that the claimant has not provided any medical evidence in relation to the reason for her resignation. It was put to the claimant that there may be many reasons for an employment to come to end for example bad timekeeping, bad attitude or person simply preferring not to work. The claimant's evidence is that she wished to continue within her role but was prevented from

doing so due to ill-health. It is noted that she has not provided medical records relating to her health from that period. The claimant said that she did not believe that that was required or relevant for these proceedings. On balance, taking the entirety of the evidence into account, I consider it likely that the claimant wanted to work. On balance I accept the claimant's evidence that she left Weavers as her health prevented her from undertaking such a physical role.

12. When examining the role that the claimant undertook at Weavers I note that her average weekly earnings amounts to £213.51. This is significantly less than the weekly earnings earned by the claimant during her employment with the respondent that amount to £463.44. I do not consider that this role with Weavers amounts to an equivalent permanent job. Mr Comb submits that there is no evidence before the tribunal in relation to potential overtime available to the claimant or hours worked by the claimant during her time at Weavers. However in assessing the evidence before the tribunal I conclude that the claimant wanted to work. She took active steps to mitigate her loss. I consider it most likely that the claimant worked within this role to the fullest extent that she reasonably could and tendered her resignation as despite her best efforts she was not able to undertake the particular physical aspects of this role as she has said. I do not consider that this role with Weavers breaks the chain of causation. I consider that the ongoing loss during this employment and following this employment to arise in consequence of the claimant's constructive unfair dismissal and be attributable to the respondent.

13. The claimant has not worked since December 2023. She has investigated work at a dry cleaners and had a trial however she could not physically do the work required due to problems with her back and limbs. She still receives job information from 'Indeed' but she does not consider them because she physically cannot work at the moment.

14. In assessing loss of earnings I am required to look at the loss flowing from the unfair dismissal. I find it likely that had the claimant not been unfairly dismissed she would have continued within her role until the end of 2023 in any event.

15. I consider that the likely circumstances from January 2024 onwards are potentially different in that the claimant's health appears to have deteriorated. I asked the claimant about the likelihood of her continuing to work for the respondent and the claimant said, 'I loved my job and I would have been able to carry on working there the other jobs I had were a lot more manual than the job I was doing. During reexamination the claimant reiterated that she did not know how long she would have stayed with the respondent and she not been unfairly dismissed. On examining the entirety of the evidence I accept the claimant's

evidence that the work both at Tesco and at Weavers was significantly physically more difficult and significantly different from her work undertaken for the respondent. There is a basic manual element of the alternative work that was not present within the claimant's work for the respondent. However I also find that there is a possibility that the claimant's health would have prevented her from continuing within her role within the respondent. On balance I find that there is a 50% chance that the claimant would have continued and a 50% chance that she would have been unable to do so due to ill-health. It is just and equitable to reduce the losses from January 2024 to reflect the possibility that the claimant would have been unable to continue to work for due to ill-health from 2024.

16. For the avoidance of doubt I make no comment in respect of the cause of the ill-health experienced by the claimant.

17. I heard submissions in relation to the applicability of the statutory ACAS code of practice on disciplinary and grievance procedures. The claimant was not dismissed for any reason relating to conduct or capability and the only potentially applicable statutory code is that applicable to grievance procedures. Mr Palme points to the respondent's failure to investigate the serious concerns that were raised in respect of the claimant's conduct. I refer to paragraph 69 of the liability judgment that records: 'The investigation [into the claimant's conduct] is triggered by the report of Mr Ullah. However, the respondent did not take a single step to commence, progress or conclude this investigation.' This failure of the respondent's part was a pillar of the constructive unfair dismissal finding. This inaction by the respondent resulted in a situation whereby when the claimant subsequently submitted a grievance, however some of the matters raised by the claimant within the grievance process were not dealt with as they were said to be part of this outstanding investigation. There is no significant argument in relation to the respondent's procedural handling of the grievance in itself. On balance I do not consider that these circumstances are such that the respondent's failure to progress the investigation engages the statutory ACAS code of practice on disciplinary and grievance procedures. I therefore do not award an uplift by reference to failure to follow an ACAS code. If I am wrong, and the ACAS code of practice is applicable in this scenario I do not find it just and equitable to uplift the award.

18. The claimant says that she has not received a universal credit or any benefit that would trigger the recoupment provisions. The claimant has received personal Independence payments (PIP). This benefit is not work-related and not taken into account in relation to the calculation of the compensatory award.

19. The below figures were discussed and agreed with the parties:

    19.1 It is agreed that the claimant's weekly earnings that the respondent amounted to £463.44 gross and £403.19 net.
    19.2 Loss of earnings from 17 May 2023 to 31 December 2023, 33 weeks @ £403.19 net per week. This amounts to £13,305.27.
    19.3 Loss of earnings from 1 January 2024 to 8 June 2026, 127 weeks @ £403.19 net per week. This amounts to £51,205.15. 50% of this sum amounts to 25,602.56.
    19.4 The total loss of earnings prior to mitigation to today's date amounts to £38,907.84
    19.5 Total mitigation of £5262.17.
    19.6 Total loss of earnings to today's date is £33,645.67.
    19.7 Total compensation following the application of the statutory cap is £24,098.88

20. Ms Plummer acknowledged that the statutory cap applied and therefore the additional sums in relation to pension loss and interview expenses may be disregarded for the purposes of this calculation.

21. Both parties confirmed that there was no other matter for the tribunal to decide.

Approved By:

Employment Judge Skehan

Date: 8 June 2026

SENT TO THE PARTIES ON

7 July 2026

FOR THE TRIBUNAL OFFICE

judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found here:

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