



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No. 8002650/2025

Held in Dundee via Cloud Video Platform on 20 April 2026

Employment Judge Hendry

Mrs A Henderson

**Claimant
In Person**

A Irvine

**Respondent
Mr P Irvine (Son)**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Tribunal finds as follows:

(One) The claimant was unfairly dismissed from her employment.

(Two) the respondent shall pay the claimant a monetary award for unfair dismissal amounting to **Eight Thousand Two Hundred and Six Pounds and Ten Pence (£8206.10)**, the prescribed element of the award is **Three Thousand Seven Hundred and Ninety Five pounds (£3795)** and the balance of the award namely **Four Thousand Four Hundred and Eleven pounds and Ten pence (£4411.10)** is payable immediately.

REASONS

1. The claimant raised proceedings for unfair dismissal against Mrs Arlene Irvine. No ET3 was lodged on her behalf. The case proceeded to a hearing on remedy 20 April 2026 at which the claimant gave evidence.

Background

2. The unfortunate background to this case is the claimant Mrs Henderson provided personal care to the respondent who is disabled. The respondent was the claimant's employer but in practice the claimant's son, Peter Irvivne acted on her behalf and was regarded as the "administrator" for the purposes of funding her care.
3. At the start of the hearing, I explained to Mr Irvivne the purposes of today's hearing, the legal background and the difficulties that legal background posed for him. He advised that he had sent to the Tribunal a document setting out his mother's position but unfortunately this had not been uploaded into the digital system. I adjourned briefly to allow consideration of the document that had been lodged. Mrs Henderson confirmed that she had received a copy.
4. There was an issue as to how much capacity/understanding of the proceedings the respondent actually had. Correspondence had been entered into with the claimant's then solicitors. The matter was set out clearly in a letter dated 30 November 2025 by Judge Kemp in order of receipt of correspondence from Mr Irvine. The Tribunal wrote instructed by Judge Kemp:

"The Tribunal can give limited assistance and must remain impartial between the parties. If the respondent does not have the capacity to make decisions it may be necessary to appoint someone to act on her behalf, and that may require medical advice and an application to a court. If there is a wish to represent the respondent the Response Form can be completed on her behalf, but whether that can be done properly may be dependent on whether she is able to give instructions for that. These are matters she may wish to seek legal advice upon."

5. Further correspondence took place with the Tribunal and it was clear that the claimant had limited capacity. This was confirmed by Mr Irvine. No ET3 response form was ultimately lodged and accordingly a hearing on remedy was arranged to take place on 20 April.

6. I explained to Mr Irvine that in terms of Rule 22(3) of the Employment Tribunal Procedural Rules 2024 the respondent could attend at such a hearing although they had not lodged a response form and could take part in the hearing only “to the extent permitted by the Tribunal”.
7. We discussed the matter and what Mr Irvine’s role might be. He confirmed that his mother was unable to give instructions in relation to these proceedings. He had attended because he wanted to make her position clear in relation to some factual inaccuracies. After considering the matter I explained to Mr Irvine that the first difficulty was that he was not the respondent in this matter. It was difficult to regard him as the respondent’s representative because he could not properly take instructions from Mrs Irvine because of her limited capacity. I understand that she has dementia Nevertheless, I indicated to him that I would read the document he had submitted then hear evidence from Mrs Henderson and then invite him to put any questions he wanted to ask to her through the Tribunal and they would then, if appropriate, be put to the claimant for a response. This is indeed what occurred.
8. I would record that understandably there were some attempts by both parties, to discuss some of the background acrimony and a subsequent complaint to the Social Work Department made by the claimant. I indicated the latter matter was not relevant and put to the claimant some questions raised by Mr Irvine which he indicated were suggestive of her “character”. I took this to in effect be a challenge to her credibility.
9. In the event I found Mrs Henderson to be a straightforward and honest witness. I found her evidence credible and mostly reliable. There was a real dispute as to the level of cognitive disability the respondent suffered from. I accept that when the claimant worked with her it might vary and she might have “good days and bad days”. Mrs Henderson conceded that it there may have been further deterioration after she was dismissed.
10. I made the following findings in fact:
Dismissal
 1. The claimant was employed by the respondent as a Personal Assistant from 8 July 2021 until her dismissal without notice on 27 June 2025. She is 41 years old.
 2. On or around 26th June 2025, the Respondent’s son Peter Duncan/Irvine contacted the claimant and without notice or agreement stated that her new contracted days were Tuesday and Thursday. The claimant explained that she had prior commitments that week and therefore could

not change her days with such short notice, however, she would agree to the new hours and days starting the following week.

3. Mr Irvine became very aggressive telling her that she was to “fucking leave” and that she was “fucking sacked”. She said that she would work the new hours but could not do it that week due to prior commitments.
4. On 27th June 2025, Peter telephoned the claimant and started shouting aggressively at her to come in on the Tuesday. The claimant again explained this was not possible with such short notice. She was told you “are fucking sacked”. Later that day the claimant received a text message from the respondent stating that her contract was terminated.
5. No disciplinary process took place and she was not told about any right of appeal.
6. In evidence the claimant confirmed that she had been given a statement of terms and conditions by a Ms Denise Freeman, the respondent's daughter but at a later point Mr Irvine had told her that she did not need a contract of employment. She confirmed that she was aware of her basic contract conditions namely, her rate of pay hours, holidays etc.

Compensation

7. Following her dismissal the claimant was unemployed. She received benefits namely Universal Credit. The claimant began looking after her grandson and received Limited Capability Work Related Allowance (LCWRA) 29/01/2026 at £432 per month. Her loss claimed to the date of the hearing amounts to
8. Following her dismissal the claimant has been unwell. She suffers from anxiety and panic attacks. She attributes this to the circumstances surrounding her dismissal. She not suffered such ill health in the past. She had a heart attack in 2023 but has recovered from this. She has also diabetes which is under control. The claimant currently looks after her grandson as a “Kinship Carer” but she believes that she is physically able to work two to three days per week and she intends to return to care work.
9. Following her illness the claimant consulted her G.P. and was prescribed Sertraline for her anxiety. This is an antidepressant mood stabilising medication. She takes it daily.
10. The claimant applied for Universal Credit and thereafter applied for Limited Capacity Work Related Allowance which she received from 29 January 2026 onwards.

Discussion and Decision

11. The claim for unfair dismissal was straightforward. The claimant's contract was terminated summarily without any process being adopted or an appeal being given. Dismissal in such circumstances was clearly outwith the band of reasonable responses available to the employer when she refused to change her agreed hours at short notice but had indicated that she would be able to work the new hours the following week.
12. In terms of Section 122 of the Employment Rights Act 1996 (the Act) the claimant is entitled to a basic award calculated on her age, service and gross wage. It is calculated as follows $4 \times 1.5 \text{ weeks} \times £197.00$ (£1182).
13. In term so of section 123 of the Act the claimant is entitled to compensation that the Tribunal considers is: "just and equitable in all the circumstances having regard to the loss sustained by the complainant in consequence of the dismissal in so far as that loss is attributable to action taken by the employer".
14. It was apparent that the dismissal has impacted on the claimant and her health. I accepted that the manner of the dismissal had been particularly difficult for her and had an effect on her mental health. In these circumstances the claimant is entitled to recover her lost wages from her former employer. The claimant had lost the sum of £7683 by way of lost wages ($£197 \times 39$) to the date of the hearing. She was paid £3888 for looking after her grandson so claims the balance of £3795 ($£7683 - £3888$)
15. The claimant also seeks future loss of wages at the rate of £356 pounds per month for six months after the hearing. This appears reasonable in the circumstances. This amounts to £2136 ($£356 \times 6$).
16. Having regard to s 207 of TULR(C)A 1992 the Tribunal can increase compensation of the employer has failed to follow ACAS guidelines in the dismissal. I am satisfied that it is just and equitable that the compensatory award should be increased by 10 . There was a complete lack of any disciplinary procedure adopted when the claimant was summarily dismissed. The claimant asked for 10% and this seems appropriate in the circumstances. It is applied to the loss of wages and future loss of wages but not to the basic award. It increases these sums to £6524.10 ($£3795 \text{ plus } £2136 \times 10\%$)
17. The claimant sought compensation under Section 38 of the Employment Act 2002 in relation to not having a statement of terms and conditions. I was not satisfied that her claim was well founded as she received such a statement on starting work and was, in any event of the principal terms of her contract. She is however entitled to £500 for loss of statutory rights.

18. The claimant received Universal Credit and latterly Limited Capacity Work Related Allowance in the relevant period. Universal Credit is a recoupable benefit. The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 apply to this award. The Prescribed Element relates to loss of wages up to the conclusion of proceedings on the 20 April 2026. The prescribed period is from the date of dismissal, 27 June 2025 to 20 April 2026.
19. The total monetary award amounts to £8206.10. The prescribed element is £3795.

19 June 2026

Date sent to Parties