



EMPLOYMENT TRIBUNALS

Claimant: Mrs Noppawan Mann

Respondent: DAPV Ltd

Heard at: Midlands West Employment Tribunal

On: 2nd July 2023 (by Cloud Video Platform)

Before: Employment Judge Gidney (sitting alone)

Appearances

For the Claimant: Mr Thomas Mann (the Claimant's husband)

For the Respondent: Mr Nehi Aimufua (Litigation Consultant)

JUDGMENT

The Judgment of the Tribunal is that:

1. The Claimant's compensatory award for unfair dismissal is assessed in the sum of £20,281.72.

SUMMARY REASONS

Introduction

2. This is the Remedy Judgment in Claim No. 1311862/2024 Mrs Noppawan Mann v DAPV Ltd. The case was heard on 2nd July 2026 before me, Employment Judge Gidney. As was the case at the Liability Hearing, Mr Aimufua, a litigation consultant from Cromer, acts for the Respondent and the Claimant's husband, Mr Mann, acts for the Claimant.
3. The Claimant commenced her employment with the Respondent on 25th July 2019, latterly in the role of Head of Financial Planning and Analysis. Her employment ended on 30th August 2024, following her notice of resignation provided to the Respondent on 2nd August 2024 **[192]**¹.
4. The Claimant notified ACAS of a dispute with the Respondent on 21st October 2024 and she received her ACAS Early Conciliation certificate on 2nd December 2024 **[51]**. She submitted an ET1 Claim Form **[52]** on 9th December 2024. By a Liability Judgment delivered on 28th March 2026 I ordered:
 - 4.1. That the Claimant's claim of constructive unfair dismissal succeeded and was upheld;

¹ Page numbers refer to the PDF Reader page numbers within the Remedy Trial bundle.

- 4.2. That the Claimant's claim of unlawful deductions from wages in respect of her tax rebate for the financial year ending 2023/2024 succeeds and was upheld;
 - 4.3. That the Claimant's Basic Award was assessed in the sum of £3,500.00;
 - 4.4. That the Claimant's compensation for unlawful deductions of wages was assessed in the sum of £628.87;
 - 4.5. A further remedy hearing would be listed for today, 2nd July 2026, to determine the appropriate level of the Claimant's compensatory award with directions given to the parties to ensure that a remedy bundle and witness statements were exchanged in good time.
5. The matter returns to me today to determine the final remaining issue, namely what level of compensatory award should be paid to the Claimant, following her constructive unfair dismissal. I have been provided with an Agreed Remedy bundle consisting of 183 pages. It contained:
- 5.1. the Claimant's schedule of loss (pages 4 to 6);
 - 5.2. the Respondent's counter schedule of loss (pages 142 to 143);
 - 5.3. the Claimant's remedy witness statement (pages 175 to 179);
 - 5.4. a witness statement from Dominic Portman for the Respondent (pages 180 to 183);
 - 5.5. A number of other supporting documents including pay slips, documents relating to professional qualifications; a list of job vacancies provided by the Claimant to demonstrate the qualifications needed for roles with a comparable salary and other contractual documentation;
 - 5.6. The Liability Judgment & Remedy Case Management Directions Order.

The relevant legal principles

6. The following legal principles apply in determining the appropriate level of a compensatory award. The starting point is section 123 of the **Employment Rights Act 1996**:

123 Compensatory award.

- (1) *Subject to the provisions of this section and sections 124, the amount of the compensatory award shall be such amount as the tribunal considers 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.*
- (2) *The loss referred to in subsection (1) shall be taken to include ... any expenses reasonably incurred by the complainant in consequence of the dismissal, ...*
- (6) *Where the tribunal finds that the dismissal was to any extent caused or contributed to by any action of the complainant, it shall reduce the amount of the compensatory award by such proportion as it considers just and equitable having regard to that finding.*

124 Limit of compensatory award etc.

- (1) *The amount of a compensatory award to a person calculated in accordance with section 123, shall not exceed the amount specified in subsection (1ZA).*
- (1ZA) *The amount specified in this subsection is the lower of £123,543 and 52 multiplied by a week's pay of the person concerned.*

7. Compensation for unfair dismissal should be awarded to compensate and compensate fully, but not to award a bonus: **Norton Tool Company Limited v Tewson** [1973] All ER 183. The object of the compensation reward is to compensate the employee for their financial losses as if they had not been unfairly dismissed. It is not designed to punish the employer for their wrongdoing.

8. The immediate loss of earnings is the loss suffered between the effective date of termination and the remedy hearing. Loss of earnings will be calculated on the basis of net take home pay. The employer's liability will normally cease before the date of the remedy hearing if the employee has, or ought to have, got a permanent new job paying at least as much as the old job as there will be no loss of earnings arising after that date. An employee may have ongoing future losses if, by the date of the remedies hearing, they have not secured a new job or obtained a job with a salary and benefits that are less valuable than their previous employment.
9. The future loss figure is based on the weekly loss multiplied by number of weeks for which the Tribunal concludes it is just and equitable that the particular loss will continue after the remedy hearing, based on how long the Tribunal concludes it is likely that the loss will continue. A broad brush approach is to be used by the Tribunal in its calculation.
10. It is a fundamental principle that any Claimant will be expected to mitigate the losses they suffer as a result of any unlawful act by giving credit for earnings from a new job. Further, the tribunal will not make an award to cover losses that could reasonably have been avoided by the Claimant taking reasonable steps to avoid that loss. Such an individual may be awarded the difference between the salary of the lower paid new job and the previous salary for a period until the tribunal concludes they could reasonably have found similarly well paid work.
11. The Claimant is expected to take reasonable steps to minimise the losses suffered as a consequence of the Respondent's unlawful act. The burden of proving a failure to mitigate is on the Respondent: **Fife v Scientific Furnishings Limited** [1989] IRLR 331. It is insufficient for a Respondent

merely to show that the Claimant failed to take a step that it was reasonable for them to take. Rather, the Respondent has to prove that the Claimant acted unreasonably.

12. There's a difference between acting reasonably and not acting unreasonably. If the Claimant has failed to take a reasonable step the Respondent has to show that any such failure was unreasonable: **Wright v Silverline Car Caledonia Ltd** [2016] UKEAT/0008/26. The Tribunal will consider:

- 12.1. What steps the claimant should have taken to mitigate his or her losses;
- 12.2. Whether it was unreasonable for the claimant, to take such steps; and,
- 12.3. If so, the date from which an alternative income should have been obtained and the amount of that income.

Matters agreed between the parties.

13. I am grateful to the reasonable approach taken by Mr Nehi Aimufua (a litigation consultant from Cromer who appears on behalf of the Respondent) who agreed the figures set out in the Claimant's 'detailed log of past pay net income shortfall' between her income whilst employed by the Respondent and her income whilst employed by her new employer, Changing Lives Together **[5]**. This set out the net pay that she would have received for each month, had her employment with the Respondent continued and her actual net pay whilst employed by Changing Lives Together. It was prepared up to the end of May 2026 in the total sum of **£13,897.43**.
14. Mr Aimufua agreed that the Claimant's schedule of the differential between her net pay whilst employed by the Respondent and her net pay whilst

employed by the Charity Changing Lives Together. The Claimant's schedule also showed the ongoing difference in pay between the two employments in the sum of **£580.39**. Mr Aimufua also agreed this ongoing monthly loss.

Matters in dispute between the parties.

15. The only issue between the parties was the extent to which the Claimant had mitigated her loss, and in particular whether those failures were unreasonable, and if so, from what date.
16. Subject to the determination of those points the Respondent asserts that it would not be just and equitable to award compensation for a period in which the Claimant had unreasonably failed to mitigate her loss and/or that such losses could not be attributed to the Respondent's unfair dismissal of the Claimant. Mr Aimufua submits that the Claimant has unreasonably failed to mitigate her losses and that a Claimant acting reasonably in her position would have replaced those losses by December 2024, ie 5 months after the Claimant's effective date of termination by the Respondent.

The Evidence.

17. The Claimant told me that she took employment with the Changing Lives Together charity knowing that they were offering her less pay, and only a 4 day a week contract, as she had to take immediate steps to bring an income into her household. I consider the securing of that employment was substantial and reasonable mitigation of her losses.

18. It did not mitigate all of her losses however. Over time the Claimant received two increases in her hourly rate. These reduced the ongoing monthly losses from approximately £759 to £671 and then to £580.00.
19. Mr Portman told me in evidence that the Claimant was working towards a professional qualification and had secured 3 exemptions towards an ACCA qualification before arriving in the UK. He told me that he supported the Claimant in obtaining her professional qualifications which she was still working towards when she resigned. He told me that the Tribunal's focus should be on what the Claimant did to replace her earnings and not her focus on obtaining professional qualifications. In terms he asserted that the Respondent should not be bankrolling the Claimant's studies when she should be using that time to replace her earnings. Mr Portman told me that in December 2024 (5 months post resignation) he offered the Claimant part-time work, which he said would have been paid upfront. Any offer of new work would have to have involved an upfront payment as at the date of termination the Respondent had failed to pay any salary at all to the Claimant for the whole of the period January 2024 to August 2024. All these sums remained unpaid in December 2024 when Mr Portman made his offer. Mr Portman argued that as the Claimant was only working 4 days a week at Changing Lives Together, she could have worked for him on her 5th day and this would have further mitigated her losses.
20. However, Mr Portman accepted that no written offer had ever been put to the Claimant, and there were no discussions as to the terms. Today he could not say what the level of pay would have been, or how many hours it would have involved, or whether there would have been a contract, or a self employed engagement. He was not able to put a figure on what the Claimant would have been paid and how far it would have mitigated her losses.

Conclusions

21. I conclude that the Claimant's decision to reject that offer was reasonable for the following reasons:
- 21.1. Mr Portman and the Respondent had not paid the Claimant's salary for the period of January 2024 to August 2024 in circumstances that destroyed trust and confidence between the parties. This arrangement would have required trust and confidence and, reasonably in my judgment, there was none;
 - 21.2. The Claimant was focussed on her 4 day employment with Changing Lives Together and was using her 5th day to complete her professional qualifications. Electing to stay with this plan as her best means of mitigating her losses in full in as short a time as possible was a reasonable decision, in my Judgment.
 - 21.3. Mr Portman did not tell the Claimant what the commitment was and how much she would be paid, and he could not tell me that today.
 - 21.4. The Claimant's job vacancies (in the bundle at pages 104-141) demonstrate that finance jobs in her geographic location that paid at the level that would have mitigated her losses required an ACCA or CIMA qualification.
22. In the circumstances I reject the submission that the Claimant acted unreasonably by rejecting Mr Portman's unspecified offer and focussing on obtaining her professional qualifications. I also reject the submission made by Mr Aimufua that the Claimant acted unreasonably by not taking employment on her 5th day outside of the finance sector, to work in a warehouse or retail check-out. I reject that submission on two grounds, firstly because, as stated, I consider that it was reasonable for the Claimant to focus her 5th day on obtaining a professional qualification that would have enabled her to replace her earnings in a finance role and secondly on the

ground that the Respondent had produced no evidence at all of jobs outside the finance sector that it asserts the Claimant should have applied for, or evidence of what mitigation those roles would have brought in. The duty lies on the Respondent to do this, and it has failed to do so.

23. The final point raised by Mr Portman was that, prior to her dismissal the Claimant's role was split and shared between her and Lucy Reed. He asserted that at some point the Claimant's salary would have reduced to reflect the reduced responsibility. However, once again there was no evidence to support that at all, and I note that the Claimant's salary did not reduce after her role was split.
24. In all of the circumstances I reject the Respondent's submission that the Claimant has unreasonably failed to mitigate her losses, and, accordingly, I move to assess those losses without a reduction for failure to mitigate.
25. I accept the Claimant's evidence that she expects to be qualified in January 2027 and will have found alternative income that fully mitigates her losses by end of April 2027, which would be the first point that notice given to Changing Lives Forever could be given and worked.
26. In the circumstances I have assessed past losses in the agreed net monthly sum of £13,897.43 (to May 2026) with the additional month's losses of £580.39 for June 2026 making a total for past losses of £14,477.82.
27. I have assessed future losses at the agreed net monthly sum of £580.39 for the period between July 2026 and April 2027, inclusive, namely 10 months, or £5,803.90.
28. Taking those together the total judgment for the Claimant, that it is just and equitable for the Respondent to pay, is £20,281.72.

Judgment

29. It is the Judgment of the Tribunal that:

29.1. The compensatory award is assessed in the sum of £20,281.72.

**Summary Reasons approved
by Employment Judge Gidney**

On 8th July 2026

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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Recording and Transcription

Case Number:
1311862/2024

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