



## EMPLOYMENT TRIBUNALS

Claimant

**Miss E Cartlidge**

Respondent

v **Mr Zabeer Hussain t/a The Village Cleaners**

**Heard at: Leeds**

**On: 3 March 2020**

**Before: Employment Judge JM Wade**

**Appearances:**

**For the Claimant: Mr P Wilson (counsel)**

**For the Respondent: No attendance**

## JUDGMENT

- 1 The claimant's complaints of unfair and wrongful dismissal are well founded and succeed.
- 2 The respondent shall pay to her the following sums:

Basic Award	£1773.36
Compensatory Award	£6830.72
Total Judgment sum:	<u>£8604.08</u>
- 3 The recoupment regulations do not apply to these sums.

## REASONS

1 The above complaints were presented by the claimant after her dismissal following nine years employment. She was aged over 41 at all times during her employment. She named the respondent as her employer and he presented a response promptly on 17 November 2019. The response did not take issue with the identity of the employer and affirmed the employer details. The claims were denied. The case had been listed for a one-day hearing today. Standard directions applied. Nothing further was heard until an application to strike out the response for a failure to comply with directions was made by the claimant, and, after warning to the respondent in February 2020, granted. The time estimate for this hearing was reduced. On 27 February Mr Hussain emailed the Tribunal asserting he "had nothing to do with this business" and had sold it. He did not attend today or seek to challenge the striking out of the response.

2 The claimant had prepared a witness statement for today affirming that the respondent was her employer at all material times and the circumstances of her

dismissal. There was also a bundle of documents including communications from the respondent to the claimant, as employer. I find that the respondent was the employer at all material times.

3 Pursuant to Rule 21, there was sufficient information on the file to enable me to determine the claims in the claimant's favour, the response having been struck out.

4 As to remedy, and compensation, I heard oral evidence from the claimant addressing the schedule of loss details. I find the claimant had nine years of continuous employment (and nearly ten years); she worked four hours per day, four days per week; 10am until 2pm. She has not managed to find a replacement role, not least because of ill health in the immediate aftermath, and caused by an upsetting dismissal after many years' loyal service. Further her former hours had enabled her to accommodate caring responsibilities for her elderly parents, which have now changed through bereavement and further diagnosis, but remain a challenge affecting the hours she can work. She is looking for work, and has claimed no benefits.

5 After consideration of the relevant principles, I consider the claimant's lost earnings to today, and for at least a further six months into the future, are likely to be attributable to the action taken by the respondent in dismissing her. There was no evidence before me of a step she could have taken which would have mitigated those losses.

6 There was no opposition to the proposition that the statutory cap of 52 weeks' pay on a compensatory award for unfair dismissal applies in these circumstances. That is the case even where uplifts for a failure to comply with the ACAS code and a failure to provide written particulars of employment are sought, as they were here. The claimant's weekly pay was £131.36. The entirety of remedy in this case was a matter of mathematical calculation: 13.5 x £131.36 – Basic Award; and 52 x £131.36 - Compensatory Award; and I award those sums.

7 It was agreed that damages in respect of wrongful dismissal are properly to be treated as subsumed in the above awards, to avoid double recovery.

**Employment Judge JM Wade**

3 March 2020