



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Ms T MacIntyre

v

Five Acres Nursing Home Limited

Heard at: Cambridge

On: 8 November 2017

Before: Employment Judge M Bloom

Appearances

For the Claimant: Mr C Harrington, Solicitor.

For the Respondent: Did not attend and was not represented.

JUDGMENT

1. The Claimant's claim of unfair dismissal success.
2. The Claimant is awarded to be paid by the Respondent a Basic Award of £486 and a Compensatory Award in the sum of £8,424, representing a total payment due to the Claimant by the Respondent of £8,910. The recoupment provisions do not apply to this award.

REASONS

1. The Claimant brought before me a claim of unfair dismissal. She was employed by the Respondent nursing home as an activities co-ordinator between 2 July 2014 and 31 August 2016. She was represented at the hearing by her solicitor Mr Harrington.
2. The Respondent did not attend and was not represented. That was not surprising because some months ago the business went into voluntary liquidation. An email had been received from the liquidators confirming they would not be present at the hearing.

3. I heard evidence on oath from the Claimant and came to the following conclusions. The Claimant's employment commenced on 2 July 2014. She was dismissed by the manager of the nursing home Mr Walpole on 31 August 2016. Due to the Respondent not attending this Hearing they have been unable to satisfy the burden of proof namely that there was a potentially fair reason for the Claimant's dismissal. Consequently I find that the Claimant's dismissal was unfair. She does not seek reinstatement or reengagement
4. I have heard evidence on oath concerning the Claimant's losses. She earned £162 per week. She was paid up to the end of August 2016. She was out of work for a 36 week period between the beginning of September 2016 and the end of April 2016. That is a 36 week period. Earning £162 per week over a 36 period results in losses being suffered by the claimant for the period in the sum of £5,832. She secured some part time work in October to December 2016 and mitigated those losses in the sum of £2,118.54. She was also paid two weeks notice in lieu in the sum of £324. For the period in question it results in losses of £3,389.46. The Claimant suffered no loss from May 2017 onwards. She now works as an ambulance driver earning more than she did with the Respondent.
5. To qualify as an ambulance driver she had to attend some residential training courses. I am satisfied that those costs were reasonably expended by the Claimant in mitigating her loss enabling her to secure the alternative employment of an ambulance driver. Those costs amounted to the sum of £4,998. That sum is added to the loss of earnings stated above. In addition I award the Claimant the sum of £324 representing two weeks gross pay in respect of loss of statutory rights. This makes a total compensatory award in the Claimant's favour in the sum of £8,711.46.
6. There was a complete failure by the respondent to follow the ACAS Code of Practice. I award the Claimant an additional sum representing 25% of the Compensatory Award which result in a further sum of £2,177.86.
7. This results in a total Compensatory Award of £10,889.32. Such a sum is subject to the statutory cap of one years' gross pay namely the sum of £8,424.
8. The Claimant is entitled to a Basic Award representing two years qualifying service. She was 45 years old at the time of her dismissal. She was paid £162 gross per week which results in a basic award of £486 (ie 3 x £162).
9. Adding the Basic Award to the Compensatory Award results in an award in the Claimant's favour in the sum of £8,910 which is to be paid to her by the Respondent.

Employment Judge M Bloom

Date:

Sent to the parties on: .28/11/2017

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For the Tribunal Office