



EMPLOYMENT TRIBUNALS

Claimant: Ms Danielle Aggar

Respondent: South Central Clothing Limited

Heard at: Southampton On: 3 October 2018

Before: Employment Judge Gardiner

Representation:

Claimant: In person

Respondent: Mr V Walters, Store Manager

JUDGMENT

1. The Claimant's claim for unfair dismissal succeeds.
2. The following adjustments fall to be made :
 - a. A reduction of 20% to the compensatory award for the chance that the Claimant may have been fairly dismissed had a fair process been followed;
 - b. A reduction of 25% to the basic and compensatory awards for contributory fault;
 - c. An increase of 25% to the basic and compensatory awards in accordance with Section 207A of the Trade Union and Labour Relations (Consolidation) Act 1992 for the Respondent's failure to follow the ACAS Code of Conduct on Disciplinary Procedures.
3. The Claimant is entitled to a basic award of **£540**. This has been calculated as follows :

- a. The Claimant's weekly gross pay of £288, multiplied by 2, reflecting the Claimant's two years of continuous employment, making £576;
 - b. That figure of £576 is then increased by 25% under Section 207A Trade Union and Labour Relations (Consolidation) Act 1992, adjusting the figure to £720.
 - c. This figure of £720 is then reduced by 25% for contributory fault, adjusting the figure to £540;
4. The Claimant is entitled to a compensatory award of **£7344.03**. This has been calculated as follows:
- a. Past compensatory award of £5778.69 :
 - i. The Claimant's arithmetical loss in relation to the period from the date of dismissal to the date of the hearing is £260.89 net x 28 weeks = £7304.92 as explained in the oral reasons, plus an award of £400 for loss of statutory rights, making a total of £7704.92;
 - ii. This arithmetical figure needs to be reduced by 20% for the chance that the Claimant would have been fairly dismissed had a fair procedure been followed. The adjusted figure is £6163.94;
 - iii. That figure is then increased by 25% under Section 207A Trade Union and Labour Relations (Consolidation) Act 1992, adjusting the resulting figure to £7704.92;
 - iv. This figure is to be reduced by 25% for contributory fault, adjusting the figure to £5778.69;
 - b. Future compensatory award of £1565.43 :
 - i. The Claimant's future arithmetic loss is £2087.12, being eight weeks weekly net pay of £260.89;
 - ii. This figure is to be reduced by 20% for the chance that the Claimant would have been fairly dismissed had a fair procedure been followed. The adjusted figure is £1669.70.
 - iii. That figure is then increased by 25% under Section 207A Trade Union and Labour Relations (Consolidation) Act 1992, adjusting the previous figure to £2087.13.
 - iv. That adjusted figure is then reduced by 25% for contributory fault, adjusting the figure to £1565.34;
 - c. The total compensatory award is therefore the sum of the adjusted

past and the adjusted future compensatory award figures, being
 $£5778.69 + £1565.34 = \mathbf{£7344.03}$.

5. The figures set out in this Judgment differ from the precise figures announced at the conclusion of the hearing. This is because of an arithmetical error in the calculations made at the conclusion of the hearing. The error has been corrected by the Tribunal amending the figures by way of reconsideration under Rule 73 of the ET Rules 2013.
6. For the purposes of the Recoupment Regulations, the protected period is the period from 21 March 2018 to 3 October 2018. The compensatory award in relation to that period is £5778.69.

Employment Judge Gardiner

Date: 4 October 2018

Reasons for the Judgment were given orally at the conclusion of the hearing. In accordance with Rule 62(3) of the 2013 Employment Tribunal Rules, written reasons will not be provided unless they are asked for by a written request presented by any party within 14 days of the sending of the written record of the decision.