



# THE EMPLOYMENT TRIBUNALS

BETWEEN

*Claimant*

*Respondent*

Miss C Banks

AND

Durham Activewear Limited

## JUDGMENT OF THE EMPLOYMENT TRIBUNAL

**Held at:** North Shields Hearing Centre

**On:** Wednesday 14 February 2018

**Before:** Employment Judge S A Shore

### *Appearances*

**For the Claimant:** In Person

**For the Respondent:** Mr K Wright, Director

## JUDGMENT

1. The claimant's claim of unfair dismissal succeeds. The claimant did not resign. She was dismissed without notice on 10 September 2017. The reason for dismissal was conduct.
2. For unfair dismissal, the respondent will pay the claimant a basic award of 1.5 weeks' pay times £294.83 per week equals £442.25.
3. For a compensatory award, the respondent will pay the claimant two weeks' pay at £263.57 for her period of unemployment equals £527.14.
4. The respondent will pay the claimant 52 weeks at the difference between her net pay with the respondent of £263.57 and her average net pay with her new employer of £210.84. The difference equals £52.73. £52.73 x 52 weeks equals £2,741.96.

5. For loss of employment rights, the respondent will pay the claimant £500.00.
6. The total of the compensatory award is £3,769.10 to which is added 15% for failure to comply with the ACAS Code of Conduct, which is a further £565.37 making a total of £4,334.47 for the compensatory award inclusive of uplift. When added to the basis award of £442.95, the total payable by the respondent to the claimant for unfair dismissal is £4,777.72.
7. The claimants claim for breach of contract (failure to pay notice pay) succeeds. The respondent shall pay to the claimant three weeks' pay at £263.57 equals £790.71.
8. The claimants claim for unauthorised deduction of wages succeeds. The respondent will pay the claimant one week's pay at £263.57.
9. The claimant's claim of failure to pay holiday pay succeeds. The claim was presented on 24 October 2017 so is capped at two years prior to that date. There are three periods for which compensation is awarded. From 1 January 2017 to 10 September 2017 the respondent will pay the claimant £1,154.20. From 1 January 2016 to 31 December 2016 the respondent will pay the claimant £1,475.99. From 25 October 2015 to 31 December 2015 the respondent will pay the claimant £263.57. The total holiday pay payable by the respondent to the claimant is £2,893.76.
10. The total payable for breach of contract, unauthorised deduction of wages and holiday pay is £3,948.04. I award the claimant an uplift of 15% for the respondent's failure to engage with the ACAS Code of Conduct on grievances which is a further £592.21. That makes a grand total of £4,540.25 for all heads of claim except unfair dismissal.
11. The respondent did not provide the claimant with a written statement of terms and conditions of employment as required by Section 1 Employment Rights Act 1996. By virtue of Section 38 Employment Rights Act 2002, I award the claimant two weeks' pay at £294.83 for the respondent's failure. The respondent will therefore pay the claimant £589.66.
12. The total payable by the respondent to the claimant is £9,907.63.

---

**EMPLOYMENT JUDGE SHORE**

**JUDGMENT SIGNED BY EMPLOYMENT  
JUDGE ON  
23 February 2018**