



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Ms K Gibson

v

1. London Borough of Hounslow
2. Crane Park Primary School

Heard at: Watford

On: 6 and 7 February 2018

Before: Employment Judge Henry

Appearances

For the Claimant: Mr T Ogg, Counsel

For the Respondent: Mr L Harris, Counsel

JUDGMENT ON REMEDY

1. On the respondent conceding the claimant's claim for unfair dismissal, the tribunal awards the claimant:
 - 1.1. a basic award of £950.00, and
 - 1.2. a compensatory award of £4,364.00.
2. The respondent is ordered to pay the claimant a total award of £5,314.00.
3. The claimant's claim for wrongful dismissal is dismissed.

REASONS

1. On a finding of unfair dismissal, upon considering the monetary award, the tribunal has reminded itself that, it is for the tribunal to award 1. a basic award and 2. a compensatory award.

Basic award

2. The basic award is based on the following information:
 - 2.1 The claimant was born on 10 August 1978.

- 2.2 The effective date of termination was 30 September 2015. At that time the claimant was aged 37 years.
- 2.3 The claimant had completed two years continuance service.
- 2.4 The basic weekly wage was £727.00, but the statutory maximum is £475.00.
- 2.5 The tribunal awards a basic award of £950.00.

Compensatory award

- 3. The tribunal finds that on the claimant's Tier 2 immigration visa having expired, and on the Home Office having made their decision that the claimant was not entitled to work or remain in the United Kingdom on the 19 November 2015, the tribunal finds that the claimant's employment would have ended, but for the dismissal on 30 September 2015, at which time the respondent pursuant to section 98(2)(c) of the Employment Rights Act 1996 could have reasonably terminated the claimant's employment, and at which time the claimant's employment would have come to an end.
- 4. The tribunal accordingly awards loss from 30 September 2015 to 19 November 2015, a total of seven weeks. The claimant's net weekly wage was £552.00.
- 5. The tribunal awards the claimant in respect of loss of earnings, the total sum of £3,864.00.

Loss of statutory rights

- 6. The tribunal awards the claimant the sum of £500.00 in respect of loss of statutory rights.
- 7. The tribunal does not find the claimant by culpable conduct to have contributed to her dismissal. The tribunal does not make any deductions in respect thereof.
- 8. The tribunal accordingly, awards the claimant:
 - 8.1 A basic award of £950.00, and
 - 8.2 A compensatory award of £4,364.00,

a total award of £5,314.00.

Wrongful dismissal

- 9. By the terms of the contract of employment, on the contract being for a fixed term, on the expiration of that fixed term, the contract automatically came to an end.

10. The tribunal accordingly finds that, pursuant to the contract of employment automatically coming to an end on 30 September 2015, the claimant was not then entitled to notice when her employment was terminated in accordance with the fixed term date.
11. The tribunal dismisses the claimant's claim for wrongful dismissal.
12. Following the determination above referred as to remedy, on the claimant making an application for the cost of air fares to return to the United States of America on 12 January 2016, pursuant to section 123(2) of the Employment Rights Act 1996, and submitted to be; air fares reasonably incurred in consequence of the dismissal, the tribunal finds that, on the facts of the case, on the claimant's employment having been terminated on 30 September 2015, and on the claimant pursuing a determination of her visa application under FLR(O) immigration criteria, and determined by the Home Office on 19 November 2015, and on the claimant then pursuing protocol as to the date of that Home Office's decision, and on the claimant then being informed that she did not have the right to remain in the UK; that right having expired on 19 November, and on the claimant then questioning whether she would be considered to have overstayed on then leaving the UK, before she departed the UK, the tribunal finds that the reason for the claimant travelling on 12 January 2016, was the consequence of her leave to remain in the UK having expired which was not then incurred in consequence of the dismissal.
13. On it being submitted on behalf of the claimant that, on the claimant's employment having been terminated she then did not have funds with which to remain in the UK, giving rise to her return to the United States, there is no evidence before the tribunal of such a state of affairs, but to contrary, as above stated, the claimant's departure when she did, incurring the air fares for which she now claims, was the consequence of her immigration status and not that of her dismissal.
14. The tribunal does not find that the claimant's air fare to the United States on 12 January 2016, were an expense incurred in consequence of her dismissal. The tribunal does not make an award in respect thereof.
15. The claimant's application for costs is dismissed on withdrawal by the claimant.
16. The respondent does not pursue costs.

Employment Judge Henry

Date: 13 / 3 / 2018

Sent to the parties on:

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For the Tribunal Office