



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Respondents

AND

MISS S. GARLAND

(1) APEX TEXTILES LTD

(In Creditors Voluntary Liquidation)

(2) JESSIE GAO

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD AT Birmingham

ON 6 February 2020

EMPLOYMENT JUDGE Algazy QC

MEMBERS: Mr R.W.White
Mr N.J.Howard

Representation

For the Claimant: In Person

For the Respondent: No appearance or representation

J U D G M E N T

The Judgment of the Tribunal is that:

- (i) The Claimant was automatically unfairly dismissed and the Claimant is awarded the following sum in respect thereof:

A compensatory award of **£21,834.45** for the period from termination to date of hearing.

- (ii) The First Respondent is ordered to pay the Claimant the total sum of **£21,834.45**, subject to the recoupment provisions set out below.
- (iii) The Claimant is entitled to, and the First Respondent is ordered to pay, the sum of **£774.40** in respect of unpaid annual leave and/or unpaid wages.
- (iv) The Claimant was subjected to discrimination arising from disability by reason of the unfavourable treatment identified in the List of Issues served on the Tribunal on 8 October 2019 (LOI) at paragraph 8 of the LOI save in respect of subparagraph (iii).
- (v) The claim for failure to make reasonable adjustments in respect of the claimant's disability in respect of paragraphs 14 (iii) and 14(v) of the LOI are well founded and succeed; the other alleged failures are dismissed.
- (vi) The claim for disability harassment in paragraph 7 of the LOI is not well founded and is dismissed.
- (vii) The respondents are ordered to pay the Claimant the sum of **£10,000** in respect of injury to feelings for the acts of discrimination and failures to make reasonable adjustments that have been established.
- (viii) The Employment Protection (Recoupment of Benefits) Regulations 1996, SI 1996 No 2349, apply. In accordance with those Regulations: (a) the total monetary award made to the claimant is £32,608.85; (b) the amount of the prescribed element is £21,834.45; (c) the dates of the period to which the prescribed element is attributable are 12 July 2018 to 6 February 2020; (d) the amount by which the monetary award exceeds the prescribed element is **£10,774.40**.

Oral reasons were given on 6 February 2020 and the Claimant was, and is, reminded of Rule 62(3), Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 regarding written reasons not being produced unless requested in accordance with Rule 62 (3).

Employment Judge Algazy QC
06 March 2020

**ANNEX TO THE JUDGMENT
(MONETARY AWARDS)**

Recoupment of Benefits

The following particulars are given pursuant to the Employment Protection (Recoupment of Benefits) Regulations 1996, SI 1996 No 2349.

The Tribunal has awarded compensation to the claimant, but not all of it should be paid immediately. This is because the Secretary of State has the right to recover (recoup) any jobseeker's allowance, income-related employment and support allowance, universal credit or income support paid to the claimant after dismissal. This will be done by way of a Recoupment Notice, which will be sent to the respondent usually within 21 days after the Tribunal's judgment was sent to the parties.

The Tribunal's judgment states: (a) the total monetary award made to the claimant; (b) an amount called the prescribed element, if any; (c) the dates of the period to which the prescribed element is attributable; and (d) the amount, if any, by which the monetary award exceeds the prescribed element. Only the prescribed element is affected by the Recoupment Notice and that part of the Tribunal's award should not be paid until the Recoupment Notice has been received.

The difference between the monetary award and the prescribed element is payable by the respondent to the claimant immediately.

When the Secretary of State sends the Recoupment Notice, the respondent must pay the amount specified in the Recoupment Notice to the Secretary of State. This amount can never be more than the prescribed element of any monetary award. If the amount is less than the prescribed element, the respondent must pay the balance to the claimant. If the Secretary of State informs the respondent that it is not intended to issue a Recoupment Notice, the respondent must immediately pay the whole of the prescribed element to the claimant.

The claimant will receive a copy of the Recoupment Notice from the Secretary of State. If the claimant disputes the amount in the Recoupment Notice, the claimant must inform the Secretary of State in writing within 21 days. The Tribunal has no power to resolve such disputes, which must be resolved directly between the claimant and the Secretary of State.