



# EMPLOYMENT TRIBUNALS

**Claimant:** Andrew Hibben  
**Respondent:** URBN UK Ltd  
  
**Heard at:** East London Hearing Centre  
**On:** 12 November 2020  
**Before:** Employment Judge Housego

## Representation

**Claimant:** Elizabeth Vanbergen of Employment Law UK Limited  
**Respondent:** Appearance not entered

## JUDGMENT

- 1. The Respondent is ordered to pay the Claimant the sum of £62,839.10.**
- 2. The claim for disability discrimination is dismissed on withdrawal by the Claimant.**

## REASONS

1. The Claimant brought his claim on 10 July 2020. The Respondent has not entered an appearance to the claim. I enter judgment for the Claimant under Rule 21<sup>1</sup>. There is material available so to do. The Claim form sets out a coherent

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<sup>1</sup> **Effect of non-presentation or rejection of response, or case not contested**

21. (1) Where on the expiry of the time limit in rule 16 no response has been presented, or any response received has been rejected and no application for a reconsideration is outstanding, or where the respondent has stated that no part of the claim is contested, paragraphs (2) and (3) shall apply.

(2) An Employment Judge shall decide whether on the available material (which may include further information which the parties are required by a Judge to provide), a determination can properly be made of the claim, or part of it. To the extent that a determination can be made, the Judge shall issue a judgment accordingly. Otherwise, a hearing shall be fixed before a Judge alone.

(3) The respondent shall be entitled to notice of any hearings and decisions of the Tribunal but, unless and until an extension of time is granted, shall only be entitled to participate in any hearing to the extent permitted by the Judge.

narrative, and the Claimant has provided evidence from which loss can be calculated.

2. The claim is listed as a disability discrimination claim, but the Claimant explains that the box was ticked in error, and could not be undone: it was never intended to bring such a claim. As one is listed in the Tribunal records I dismiss that claim on withdrawal by the Claimant.

3. The Claimant has provided a detailed schedule of loss, and a series of documents supporting that schedule of loss. He has provided details and evidence of his (so far unsuccessful) search for employment. I accept that evidence. I decide that in mid November and lockdown by reason of Covid-19 it is unrealistic to expect the Claimant to find employment within a year of his dismissal. His compensatory award is capped at one year's pay. The dismissal was by reason of redundancy (the Respondent said at the time) and so there can be no *Polkey*<sup>2</sup> or contributory conduct reductions.

4. There is no basic award, because there was a statutory redundancy payment of the equivalent amount<sup>3</sup>.

5. The detailed calculation is set out in the Schedule below, as if the calculation required for the Recoupment Regulations. The Schedule was prepared using the employmentlawclaims toolkit, with the data input from the Claimant's schedule of loss and claim form.

**Employment Judge Housego**  
**Date: 13 November 2020**

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<sup>2</sup> *Polkey v AE Dayton Services Ltd* [1987] UKHL 8

<sup>3</sup> S122(4) Employment Rights Act 1996

# Schedule

IN THE EMPLOYMENT TRIBUNALS

CASE NO: 3201807

BETWEEN

ANDREW HIBBEN  
AND  
URBN UK LTD

## CLAIMANT'S SCHEDULE OF LOSS

**1. Details**

Date of birth of claimant	13/10/1979
Date started employment	02/09/2013
Effective Date of Termination	07/02/2020
Period of continuous service (years)	6
Age at Effective Date of Termination	40
Date new equivalent job started or expected to start	07/02/2021
Remedy hearing date	12/11/2020
Date by which employer should no longer be liable	07/02/2021
Statutory notice period (weeks)	6
Net weekly pay at EDT	868.85
Gross weekly pay at EDT	1,211.54
Gross annual pay at EDT	63,000.00

**2. Basic award**

Basic award	
Number of qualifying weeks (6) x Gross weekly pay (525.00)	3,150.00
Less amount for unreasonable refusal to be reinstated	0.00
	0.00
Less redundancy pay already awarded	-3,150.00
<b>Total basic award</b>	<b>0.00</b>

**3. Compensatory award (immediate loss)**

Loss of net earnings	
Number of weeks (39.9) x Net weekly pay (868.85)	34,667.12
Plus loss of statutory rights	500.00
Plus loss of commission and/or bonus	20,000.00
Less payment in lieu	-11,025.00
Less ex-gratia payment	0.00
Less non-recoupable benefits	0.00
Less early payment of compensation	0.00
Less job seekers allowance	-7,732.40
Plus loss of pension	735.00
Pension loss	735.00
Loss of occupational pension	735.00
<b>Total compensation (immediate loss)</b>	<b>37,144.72</b>

**4. Compensatory award (future loss)**

Loss of future earnings	
Number of weeks (12.4) x Net Weekly pay (868.85)	10,773.74
Plus loss of pension	525.00
<b>Total compensation (future loss)</b>	<b>11,298.74</b>

**5. Adjustments to total compensatory award**

<b>Compensatory award before adjustments</b>	<b>48,443.46</b>
<b>Total adjustments to the compensatory award</b>	<b>0.00</b>
<b>Compensatory award after adjustments</b>	<b>48,443.46</b>

**6. Summary totals**

Basic award	0.00
Compensation award including statutory rights	48,443.46
<b>Total</b>	<b>48,443.46</b>

**7. Grossing up**

Tax free allowance (£30,000 - any redundancy pay)	26,850.00
Basic + additional awards	0.00
Balance of tax free allowance	26,850.00
Compensatory award + wrongful dismissal	48,443.46
Figure to be grossed up	21,593.46
<b>GROSSED UP TOTAL</b>	<b>62,839.10</b>
<b>AFTER COMPENSATION CAP OF £63,000.00 (GROSS ANNUAL PAY)</b>	<b>62,839.10</b>

IN THE EMPLOYMENT TRIBUNALS

CASE NO: 3201807

BETWEEN

ANDREW HIBBEN  
AND  
URBN UK LTD  
RECOUPMENT

**Recoupment**

Prescribed period

08/02/2020 to 12/11/2020

**Compensation cap applied**

Total award

£62,839.10

Prescribed element

£35,909.72

Balance

£26,929.38

**Compensation cap not applied**

Total award

£62,839.10

Prescribed element

£35,909.72

Balance

£26,929.38