



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms A White

**Respondent:** Gymphobics (Beverley) Ltd

**Heard at:** Hull **On:** 21, 22, 23 and 24 November 2023

**Before:** Employment Judge Miller  
Mr G Wareing  
Ms S Scott

## Representation

**Claimant:** Mr L White (claimant's father)

**Respondent:** Ms G Kennedy-Curnow – Litigation Executive

# JUDGMENT

1. The following complaints of direct age discrimination are well-founded and succeed:
  - a. That Ms Webster made discriminatory comments in the meeting on 3 October 2022.
2. The remaining complaints of direct age discrimination are not well-founded and are dismissed.
3. The complaint of harassment related to age is not well-founded and is dismissed.
4. The following complaint of unauthorised deductions from wages is well-founded.
  - a. The respondent made an unauthorised deduction from the claimant's wages in the period 23 May 2022 – 28 October 2022 in that the claimant was paid less than the national minimum wage. This relates particularly to morning shifts she worked that were recorded as being for 6 hours or more.
5. The complaints of unauthorised deductions from wages for non-payment of wages for attendance at training in May 2022 and deductions from the claimant's final pay are dismissed on withdrawal.

6. The remaining complaints of unauthorised deductions from wages are not well founded and are dismissed.
7. The complaint that the respondent refused to permit the claimant to exercise her right to a weekly rest period under regulation 11 Working Time Regulations 1998 is not well founded and is dismissed
8. The complaint that the respondent refused to permit the claimant to exercise her right to a rest break under regulation 12 Working Time Regulations 1998 is well founded and succeeds.
9. When the proceedings were begun the respondent was in breach of its duty to provide the claimant with a written statement of employment particulars.
10. The claimant's email of 17 September 2022 was a grievance for the purposes of the Acas Code of practice on Disciplinary and Grievance Procedures.
11. The parties having reached agreement, there will be no further hearing to determine remedy.

Employment Judge **Miller**

Date 24 November 2023