



EMPLOYMENT TRIBUNALS

Claimant: Mrs A Shepherd

Respondent: Abbey Care and Education Limited

Heard at: Leeds via CVP

On: 4th January 2023

Before: Employment Judge Moxon

Representation

Claimant: Ms Rumble, counsel

Respondent: Did not attend and not represented

JUDGMENT

A. Unfair dismissal

UPON the Claimant's complaints of unfair dismissal brought under the Employments Rights Act 1996:

1. The Claimant was automatically unfairly dismissed by the Respondent because of a relevant transfer contrary to regulation 7 of the Transfer of Undertakings (Protection of Employment) Regulations 2006.
2. The Claimant was unfairly dismissed by the Respondent pursuant to the Employment Rights Act 1996.

Remedy for unfair dismissal

Basic award

3. The Respondent shall pay to the Claimant a basic award of **£4,759.65**.

Compensatory award

4. The Respondent shall pay to the Claimant a compensatory award of **£12,273.36**, calculated as follows:

Loss of net income before the Claimant obtained a new job on 14th
November 2022: 34 weeks x £292.12 - £9,934.12

Loss of net income between the Claimant obtaining a new job and the
date of hearing: 7 weeks x £102.18 (the difference in salary) -
£715.26

Future net loss of income: 11 weeks from today x £102.18 -
£1,123.98

Loss of statutory rights: £500.00

5. The Employment Protection (Recoupment of Benefits) Regulations 1996 apply to this award.

The grand total of the compensatory award is £12,273.36.

The prescribed element is £10,649.38

The prescribed period is 23rd March 2022 to 4th January 2023.

The excess of the grand total over the prescribed element is £1,623.98.

B. Breach of contract

6. The Respondent was in breach of contract by wrongfully dismissing the Claimant without notice in circumstances where she was entitled to ten weeks' notice.
7. The Respondent shall pay the Claimant the sum of **£3,173.10** gross.

C. Unauthorised deduction from wages

8. The Respondent made an unauthorised deduction of wages by failing to pay the Claimant £193.93 for overtime worked.
9. The Respondent made an unauthorised deduction of wages by failing to pay the Claimant £77.56 for 5.5 hours taken as holiday.
10. The Respondent shall pay the Claimant the sum of **£271.49** gross.

D. Unpaid Holiday Pay

11. The Respondent failed to pay the Claimant for 47.38 hours accrued but untaken holiday pay.
12. The Respondent shall pay the Claimant the sum of **£668.14** gross.

E. Summary.

13. The Respondent shall pay to the Claimant the sum of £10,516.36 (being the totals of ((A - £10,649.38) + B+ C+ D) on or before 19 January 2022.

14. The balance of the amount due under A (being the prescribed element-
the recoupable benefits) shall be paid following service upon the
respondent of the recoupment notice by the DWP.

Employment Judge **Moxon**

Date: 4th January 2023