



EMPLOYMENT TRIBUNALS

Claimant: Miss Gemma Lumbis

Respondent: Victoria Jane Ball (trading as Cuddles Day Nursery)

RULE 21(2) HEARING

Heard at: Midlands (East) (by video; in public) **On:** 2 March 2022

Before: Employment Judge Camp

Appearances

For the claimant: in person

For the respondent: did not appear

JUDGMENT

- (1) The claimant was unfairly dismissed pursuant to sections 98 and 99 [pregnancy] of the Employment Rights Act 1996.
- (2) The respondent discriminated against the claimant by dismissing her pursuant to section 18 [pregnancy] of the Equality Act 2010.
- (3) The respondent made unauthorised deductions from the claimant's wages by non-payment of holiday pay and failed to pay the claimant compensation for accrued but untaken annual leave under regulation 14 of the Working Time Regulations 1998.
- (4) The remedy for unfair dismissal is an award of compensation, which the respondent must pay to the claimant, as follows:
 - a. a basic award of £310.26;
 - b. a compensatory award consisting of an award for loss of statutory rights of £500;
 - c. other losses are covered by the award of compensation for discrimination.
- (5) The respondent must pay the claimant compensation for discrimination as follows:
 - a. £9,000 for injury to feelings;
 - b. £10,413.99 lost earnings (£7334.61 loss to 2/3/22 and £3079.38 future loss);

- c. £420 bank charges.
- (6) The Tribunal makes the following recommendation to the respondent in accordance with section 124(2)(c) of the Equality Act 2010: that within 14 days of the date this Judgment is sent to her, the respondent should provide a fair and reasonable employment reference to and for the claimant to help her to get a new job in childcare.
- (7) The claimant's unfair dismissal compensatory award and compensation for discrimination are increased by 20 percent pursuant to section 207B of the Trade Union and Labour Relations (Consolidation) Act 1992, making those awards in total, respectively: £600; £23,800.79.
- (8) Interest is awarded on the compensation for discrimination as follows:
- a. at 8 percent per annum on injury to feelings of £10,800 (£9,000 + 20 percent) from 23 February 2021, totalling £880.57 as at 2 March 2022;
 - b. at 8 percent per annum on past financial losses of £9305.53 (£7334.61 + £420 + 20 percent) from the midway point between 23 February 2021 and 2 March 2022, totalling £379.36 as at 2 March 2022.
- (9) In addition, the respondent must pay the claimant £1800 for holiday pay and compensation for accrued but untaken annual leave.
- (10) The total amount the respondent must pay the claimant as at 2 March 2022 is: **£27,770.98** (£310.26 + £600 + £23,800.79 + £880.57 + £379.36 + £1800).
- (11) Reasons were given orally. Written reasons will not be provided unless they are asked for by a written request presented by either party within 14 days of the sending of the written record of the decision.

Employment Judge Camp
3 March 2022