



EMPLOYMENT TRIBUNALS

Claimants: (1) Ms P Pronger
(2) Ms A Brown
(3) Ms K McNeil

Respondent: Optimum Care (UK) Limited

Heard at: North Shields **On:** 26 October, 2017

Before: Employment Judge Nicol **Members:** Mr R Grieg
Mrs A Tarn

Representation

Claimants: Mr Sprack, Counsel
Respondent: Mr M West, employment law consultant

JUDGMENT

After hearing the parties, it is the unanimous judgment of the Tribunal that

- 1 for the purposes of these proceedings, all of the claimants were employed by the respondent, their employment having transferred to the respondent in accordance with the Transfer of Undertakings (Protection of Employment) Regulations, 2006, and that at the date of this hearing the respondent is continuing to trade under the above name
- 2 the claim by the three respondents that they are entitled to a protective award as set out in Section 188 of the Trade Union and Labour Relations (Consolidation) Act, 1992, is not well founded and is dismissed
- 3 for the purposes of the Employment Rights Act, 1996, as amended, the first claimant was dismissed by the respondent with the effective date of termination being 23 February, 2017, and that dismissal was unfair but, had the claimant not been unfairly dismissed when she was, in all probability her employment with the first respondent would have been fairly terminated within the next following four weeks for the reason of redundancy, with notice and/or a payment in lieu of notice, by the respondent

- 4 the first claimant's is entitled to a redundancy payment of £3997.95 and in the circumstances of this case a basic award of the same amount is not also payable to the first claimant
- 5 the first claimant's complaint that she did not receive all of the wages to which she was entitled from the respondent is well founded
- 6 the first claimant's complaint that she did not receive from the respondent all of the holiday pay to which she was entitled on the termination of her employment is well founded
- 7 the first claimant's complaint that she did not receive from the respondent notice and/or a payment in lieu of notice is well founded
- 8 for the purposes of the Employment Rights Act, 1996, as amended, the second claimant was dismissed by the respondent with the effective date of termination being 23 February, 2017, and that dismissal was unfair but, had the claimant not been unfairly dismissed when she was, in all probability her employment with the first respondent would have been fairly terminated within the next following four weeks for the reason of redundancy, with notice and/or a payment in lieu of notice, by the respondent
- 9 the second claimant's is entitled to a redundancy payment of £7476.84 and in the circumstances of this case a basic award of the same amount is not also payable to the second claimant
- 10 the second claimant's complaint that she did not receive all of the wages to which she was entitled from the respondent is well founded
- 11 the second claimant's complaint that she did not receive from the respondent all of the holiday pay to which she was entitled on the termination of her employment is well founded
- 12 the second claimant's complaint that she did not receive from the respondent notice and/or a payment in lieu of notice is well founded
- 13 for the purposes of the Employment Rights Act, 1996, as amended, the third claimant was dismissed by the respondent with the effective date of termination being 23 February, 2017, and that dismissal was unfair but, had the claimant not been unfairly dismissed when she was, in all probability her employment with the first respondent would have been fairly terminated within the next following four weeks for the reason of redundancy, with notice and/or a payment in lieu of notice, by the respondent
- 14 the third claimant's is entitled to a redundancy payment of £633.60 and in the circumstances of this case a basic award of the same amount is not also payable to the third claimant
- 15 the third claimant's complaint that she did not receive all of the wages to which she was entitled from the respondent is well founded

16 the third claimant's complaint that she did not receive from the respondent all of the holiday pay to which she was entitled on the termination of her employment is well founded

17 the third claimant's complaint that she did not receive from the respondent notice and/or a payment in lieu of notice is well founded

18 the Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations, 1996, do not apply to the compensatory awards in respect of any of the claimants

and with the agreement of both parties the Tribunal orders the respondent to pay to the first claimant

- 1 in respect of the first claimant's dismissal the agreed compensatory award of £853.80
- 2 in respect of the first claimant's complaint that she did not receive all of the wages to which she was entitled from the first respondent the agreed sum of £530.70
- 3 in respect of the first claimant's complaint that she did not receive all of the holiday pay to which she was entitled on the termination of her employment the agreed sum of £741.10
- 4 in respect of the first claimant's complaint that she did not receive notice and/or a payment in lieu of notice the agreed sum of £2192.30

and with the agreement of both parties the Tribunal orders the respondent to pay to the second claimant

- 1 in respect of the second claimant's dismissal the agreed compensatory award of £853.80
- 2 in respect of the second claimant's complaint that she did not receive all of the wages to which she was entitled from the respondent the agreed sum of £530.70
- 3 in respect of the second claimant's complaint that she did not receive all of the holiday pay to which she was entitled on the termination of her employment the agreed sum of £530.70
- 4 in respect of the second claimant's complaint that she did not receive notice and/or a payment in lieu of notice the agreed sum of £2575.32

and with the agreement of both parties the Tribunal orders the respondent to pay to the third claimant

- 1 in respect of the third claimant's dismissal the agreed compensatory award of £1183.60

- 2 in respect of the third claimant's complaint that she did not receive all of the wages to which she was entitled from the first respondent the agreed sum of £950.40
- 3 in respect of the third claimant's complaint that she did not receive all of the holiday pay to which she was entitled on the termination of her employment the sum of £682.25
- 4 in respect of the third claimant's complaint that she did not receive notice and/or a payment in lieu of notice the sum of £909.60

Employment Judge Nicol

Date 6 November 2017

JUDGMENT SENT TO THE PARTIES ON

16 November 2017

P Trewick
FOR THE TRIBUNAL

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision