



# THE EMPLOYMENT TRIBUNALS

Claimant  
Ms J Stockill

Respondents  
Mr Darrin Williams

## JUDGMENT OF THE EMPLOYMENT TRIBUNAL

MADE AT NORTH SHIELDS  
EMPLOYMENT JUDGE GARNON

ON 30<sup>th</sup> October 2017

### JUDGMENT (Liability Only ) Employment Tribunals Rules of Procedure 2013 –Rules 21 and 37

1 The claims of unfair dismissal, breach of contract, unlawful discrimination on the grounds of pregnancy/maternity contrary to the Equality Act 2010 ( the EqA), and unlawful deduction of wages ( failure to pay at the rate of the National Minimum Wage) are well founded.

2. There will be an increase in the awards under s 38 of the Employment Act 2002 (the 2002 Act) and

3 I require the claimant to show cause by **9<sup>th</sup> November 2017** why the claim of failure to provide a statement of reasons for dismissal should not be struck out.

**4.The Preliminary Hearing listed for 24<sup>th</sup> November 2017 will be converted to a remedy hearing at which the respondent may apply to be heard on remedy only as explained in the reasons below.**

### REASONS

1. The claim was served on 29<sup>th</sup> September 2017. A response was due by 27<sup>th</sup> October 2017 but none was received I am required by rule 21 of the Employment Tribunals Rules of Procedure 2013 to decide on the available material whether a determination can be made and , if so, obliged to issue a judgment which may determine liability only or liability and remedy.

2. I have in the claim form sufficient information to enable me to find all but one of the claims proved on a balance of probability but not enough to determine the sums to be awarded. I also have enough to decide to make an increase under s 38 of the 2002 Act

3. The law of unfair dismissal is in Part X of the Employment Rights Act 1996 ( the Act ). The common law provides a contract of employment may be brought to an end by reasonable notice. Dismissal without such notice is termed "wrongful". Damages for wrongful dismissal are the pay due to the employee during the notice period (see Addis v The Gramophone Company). The law of unlawful deduction from wages is in Part 2 of the Act read together with the National Minimum Wage Act as amended and Regulations made thereunder. The EqA claims are covered by section 18 and 39. However, s92 of the Act requiring a respondent to supply written reasons for dismissal does not apply to a constructive dismissal in my view.

4. If the respondent attends the remedy hearing, he may be apply to be heard on the issue of remedy, see DH Travel-v-Foster , but should give advance notification to the claimant and the Tribunal of whatever case he plans to put as soon as possible .

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**TM Garnon Employment Judge**

**Date signed 30<sup>th</sup> October 2017**

**SENT TO THE PARTIES ON**

**31 October 2017**

**M Charters  
FOR THE TRIBUNAL OFFICE**