



# EMPLOYMENT TRIBUNALS

**Claimant:** (1) Miss S Bellucci  
(2) Mr Robin Clarke

**Respondent:** Mr Robert Perkins

## PRELIMINARY HEARING

**Heard at:** Bristol (By video)      **On:** 18 and 19 October 2021

**Before:** Employment Judge Midgley

**Representation**

**Claimants:** Miss C Mallin-Martin, Counsel  
**Respondent:** Did not attend

## JUDGMENT

1. The Judgment of the Tribunal is that the claimants' claims are well founded and succeed, in particular:-
  - 1.1. The respondent unfairly dismissed the first and second claimants.
  - 1.2. The respondent unreasonably failed to comply with the ACAS Code on disciplinaries and it is just and equitable to increase the award of compensation in respect of the unfair dismissal claim by 25%.
  - 1.3. The respondent unreasonably failed to provide the claimants with written particulars of employment and it is just and equitable to award 2 weeks' pay.
  - 1.4. The respondent made unlawful deductions from the claimants' wages and failed to pay the claimants the national minimum wage:
  - 1.5. The respondent failed to pay the claimants in respect of untaken annual leave.

2. The respondent is Ordered pay the claimants compensation in respect of the claims above, as detailed in Appendix 1 hereto.
3. The respondent is Ordered to pay the claimants their costs of bringing the claims which were summarily assessed at **£5,500.00** inclusive of VAT in total.

Employment Judge Midgley  
Date: 27 October 2021

Judgment sent to the parties: 28 October 2021

FOR THE TRIBUNAL OFFICE

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.

**Appendix 1**

<b>Claim</b>	<b>First Claimant</b>	<b>Second Claimant</b>
1. Unfair dismissal 1.1. Basic Award	£2,613.00	£3,066.00
1.2. Compensatory award		
1.2.1. Loss of statutory rights	£538.00	£538.00
1.2.2. Loss of income to 18.10.21	£21,704.85	£21,509.10
1.2.3. Loss of accommodation	£2,160.00	£2,160.00
1.2.4. Pension contribution	£872.30	£863.47
1.3. ACAS Uplift s.207A TULRCA 1992	£6,305.29	£6,254.14
1.4. Statutory Cap (52 weeks' pay)	£27,390.49	£27,208.13
1.5. <u>Subtotal unfair dismissal<sup>1</sup></u>	<u>£30,003.49</u>	<u>£30,456.49</u>
2. Failure to provide written particulars of employment S.38 EA 2002 (2 weeks' pay)	<u>£1,133.60</u>	<u>£1,133.60</u>
3. Unlawful deductions from wages		
3.1. Holiday pay	£2,240.25	£2,240.25
3.2. National minimum wage	£5,184.95	£27,677.28
3.3. <u>Subtotal unlawful deductions</u>	<u>£7,209.20</u>	<u>£29,701.53</u>
<b>Total (Paras 1.6+2+3.3)</b>	<b>£38,346.29</b>	<b>£61,291.62</b>

**Recoupment (Unfair dismissal)**

The Prescribed Element<sup>2</sup> is:

First Claimant	£13,239.96
Second Claimant	£13,120.96

The Prescribed Period is 17 September 2020 until 18 October 2021

The Total Award is:

First Claimant	£30,003.49
Second Claimant	£30,456.49

The Balance<sup>3</sup> (which must be paid by the respondent to the claimants in respect of the claims of unfair dismissal) is:

First Claimant	<b>£16,763.53</b>
Second Claimant	<b>£17,335.94</b>

<sup>1</sup> Basic award and statutory cap

<sup>2</sup> A reduction of 61% is made to the Prescribed Element to reflect the 61% difference between the compensatory award and the statutory cap

<sup>3</sup> The 'Total Award' less the prescribed element

Explanation of recoupment

The Respondent must retain that part of the award which relates to the Claimants' loss of earnings up to the date of the hearing - it is called the Prescribed Element and is £13,239.96 for Mr Clarke and £13,120.96 for the Miss Bellucci, until the Respondent receives from the Department for Work and Pensions a Notice. The Notice will either require the Respondent to pay all, or part, of the Prescribed Element to the Department, or tell the Respondent that it does not require any payment.

When the Respondent receives the Notice he must pay to the Department for Work and Pensions the sum specified in the Notice and the balance between the Prescribed Element and the sum paid to the DWP should be paid to the Claimants.

The rest of the awards detailed in the Judgment, over and above the Prescribed Element, and as detailed below, are due to the Claimants straight away:

<b>Claim</b>	<b>First Claimant</b>	<b>Second Claimant</b>
Unfair dismissal	£16,763.53	£17,335.94
Failure to provide written particulars of employment	£1,133.60	£1,133.60
Unlawful deduction of wages	£7,209.20	£29,701.53
<b>Total</b>	<b>£25,106.33</b>	<b>£48,171.07</b>
Costs	£2,750.00	£2,750.00