



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms Linda Smith

**Respondent:** Trackrok Limited (formerly SCUK Technical Services Ltd)

**Heard at:** Birmingham (by CVP video hearing)      **On:** 3 October 2022

**Before:** Employment Judge Hena

## Representation

**Claimant:** Mr Ian Morley - Friend

**Respondent:** None Attendance

# LIABILITY AND REMEDY JUDGMENT

In respect of liability the Tribunal finds the following:

1. Pursuant to the Employment Rights Act 1998 s.98(1) and (2) the dismissal of the claimant was not by reason of redundancy and instead a reason that is not potentially a fair one.

2. The claimant's claim for unfair dismissal succeeds on the basis that the respondent failed to show the reason for dismissal was redundancy and instead set out in their ET3 it was due to their belief the claimant's role was a sham role.

In respect of remedy the Tribunal finds that the respondent is ordered to pay the claimant **£5,685.32**, which the claimant will pay the appropriate tax on, which is calculated as follows:

Unfair dismissal Basic Award ( $£402.80 \times 1.5 \times 2$ ) **£1,208.40**

Compensatory Award (Loss of statutory rights) **£300**

2 weeks Redundancy Notice Pay **£805.60**

A 15% ACAS uplift of **£1,271.44** for its failure to comply with the Code in relation to dismissals and their claim it was redundancy.

Holiday Pay of ( $39.79 \text{ days} \times £80.56$ ) **£3,205.48**

In respect of the case management applications made prior to the hearing commencing the Tribunal found:

1. The hearing should proceed in absence of the respondent, after considering Rule 47 of the 2013 Rules. The respondent had sufficient notice of the proceedings and noted in correspondence to the Tribunal on 28 September 2022 that they were aware of the hearing and again on 29 September 2022 that he had been advised by his insolvency practitioners to not attend the hearing.
2. The letter dated 28 September 2022 from the respondent informing the Tribunal that he was aware of the hearing but that he was winding the company up which would be completed on 14 October 2022 and that his solicitor would contact the claimant is noted. However, it is found it has no bearing on these proceedings as the respondent at the date of the hearing is still an active company.

Employment Judge Hena

Date: 03 October 2022