



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms C A Willis

**Respondent:** DAH (Yorkshire) Limited formerly Worsted Yarns Limited

**HELD by CVP in Leeds**

**ON: 10 September 2024**

**BEFORE:** Employment Judge Shulman

## REPRESENTATION:

**Claimant:** Mr J Peel, Consultant

**Respondent:** Did not appear and was not represented

# JUDGMENT

1. The correct title of the respondent is DAH (Yorkshire) Limited.
2. The Judgment of the Tribunal is that the claimant was unfairly dismissed. It is ordered that the respondent shall pay the claimant £36,499.56 by way of compensation for unfair dismissal.
3. The respondent shall pay the claimant additionally the sum of £2,359.40 for notice pay during the period 19 December 2023 to 19 January 2024.
4. The respondent shall pay the claimant the sum of £2,890.16 by way of holiday pay.
5. The respondent shall pay the claimant by way unlawful deduction of wages between 1 December 2023 and 18 December 2023 in the sum of £1,327.14.

# REASONS

## 1. **Claims**

- 1.1. Unfair dismissal.
- 1.2. Notice pay.
- 1.3. Holiday pay.
- 1.4. Unlawful deduction of wages.

## 2. **Issues**

- 2.1. Unfair dismissal. What was the reason for dismissal and did the respondent act reasonably in treating that reason as a reason for dismissal?
- 2.2. Notice pay. Did the respondent pay the claimant all her notice pay?
- 2.3. Holiday pay. Did the respondent pay the claimant all her holiday pay?
- 2.4. Unlawful deduction of wages. Did the respondent pay the claimant all her wages?

## 3. **Facts**

The Tribunal having carefully reviewed all the evidence (both oral and documentary) before it finds the following facts (proved on the balance of probabilities):

- 3.1. The claimant was employed as office manager and sales administrator by the respondent from 1 October 2005 until 19 January 2024.
- 3.2. The claimant received her notice from one Andrew Ball, who was not an employee of the respondent but was a self-employed consultant. No one within the respondent took the trouble to speak to the claimant, notwithstanding her length of service.
- 3.3. The respondent is in the business of importing yarn historically from India, to the United Kingdom, and Italy. It was then sold on by the respondent to make up cloth.
- 3.4. There was apparently a shortage of stock and the claimant was given one months' notice although she was entitled to 12 weeks' notice.
- 3.5. The claimant received no warnings and had no consultations about the fact that her employment may be terminated. She expressed herself surprised at the manner of dismissal.
- 3.6. It should be said that in or about February 2022 the claimant's salary and work hours were cut but this was described as a temporary arrangement.
- 3.7. At or about the time the claimant received her notice there had been no indication that the business was closing and no member of management spoke to the claimant about that.
- 3.8. The claimant felt her treatment was disgusting and showed total disrespect.

3.9. In fact the respondent ceased trading on 19 January 2024 described at Companies House as active and changed its name to DAH (Yorkshire) Limited during 2024.

**4. Determination of the Issues**

(After listening to the factual and legal submissions made by and on behalf of the claimant):

- 4.1. The claimant was a long serving employee and she was not consulted about her possible termination and certainly received no warning whatsoever. The Tribunal finds that the reason for dismissal was redundancy and that the respondent acted unreasonably in treating that reason as a reason for dismissal.
- 4.2. The claimant did not receive notice pay between 19 December 2023 and 19 January 2024 and the balance of her notice entitlement is subsumed in the award to be made for immediate loss.
- 4.3. The claimant asked for a substantial sum in holiday pay carried over, to which she is not entitled. She did not receive normal holiday pay however to which she was entitled from 1 January 2023 to 19 January 2024.
- 4.4. The claimant was not paid her wages between 1 December 2023 and 18 December 2023.

**5. Remedy**

5.1. Unfair dismissal

The Recoupment Regulations apply (see Annexe for explanation of their effect).

5.1.1. Basic award. Taking into account that the claimant's employment commenced on 1 October 2005 and was terminated on 19 January 2024 she had 18 years' service. Her date of birth being 27 March 1958 she is 65 years of age. We apply therefore a multiplier of 1.5. Her gross weekly wage is £688.85, so multiplying her years of service, 18, by the multiplier, 1.5, by her gross weekly wage, £688.85, her basic award is £18,598.95.

5.1.2. Compensatory award Immediate loss. The claimant says she would have carried on working if she had not lost her job, but that she was not well enough to find new work. Her immediate loss to which is applied her net average weekly pay of £516.12 covers the period 19 January 2024 to 10 September 2024, today's hearing. That amounts to 33 weeks and five days and her immediate loss is £17,400.61.

5.1.3. Compensatory award Future loss. The Tribunal does not award the claimant future loss because she did not try to mitigate her loss.

5.1.4. Compensatory award Loss of statutory employment rights. The Tribunal awards £500.00.

5.1.5.

5.1.5.1. Grand total £36,499.56.

- 5.1.5.2. Prescribed element £17,400.61.
- 5.1.5.3. Period of prescribed element 19 January 2024 to 10 September 2024.
- 5.1.5.4 Excess of 5.1.4.1 over 5.1.4.2 £19,098.95.
- 5.2. Notice pay net
  - 5.2.1. This covers the period 19 December 2023 to 19 January 2024 being a period of four weeks and four days £2,359.40.
  - 5.2.2. The balance of the notice pay claim is subsumed in the claim for immediate loss (see 5.1.2 above).
- 5.3. Holiday pay net
  - 5.3.1. This covers the period 1 January 2023 to 31 December 2023. The daily rate of holiday pay is £103.22 which we reach by the annual net pay of £26,838.24 divided by 260 being the number of relevant days for calculation of holiday pay. The amount of holiday pay not taken during this period is 28 days at the rate of £103.22 per day £2,890.16.
  - 5.3.2. Holiday pay for the period 1 January 2024 to 19 January 2024. No award is made.
- 5.4. Unlawful deduction of wages net
  - 5.4.1. For the period 1 December 2023 to 18 December 2023, taking into account the claimant's net pay the Tribunal awards £1,327.14. The claimant also claimed unlawful deduction of wages from 1 January 2024 and 19 January 2024 but this is covered by the notice pay so no award is made.
- 5.5 Grand Total £43,076.26.

**Employment Judge Shulman**

Date: 26 September 2024

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.

**Public access to employment tribunal decisions**

Judgments and reasons for the judgments are published, in full, online at [www.gov.uk/employment-tribunal-decisions](http://www.gov.uk/employment-tribunal-decisions) shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

**Recording and Transcription**

Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>