



THE EMPLOYMENT TRIBUNAL

SITTING AT: LONDON SOUTH

BEFORE: EMPLOYMENT JUDGE TSAMADOS
(Sitting alone)

BETWEEN:

Lorna Mitchell

Claimant

AND

Marie Theocharous
trading as
Hopscotch Day Nursery

Respondent

ON: 6 February 2017

Appearances:

For the Claimant: Mr Edward Benson of FRU

For the Respondent: In person

JUDGMENT

The Judgment of the Employment Tribunal is as follows:

1. The correct name of the Respondent is Marie Theocharous trading as Hopscotch Day Nursery.
2. The Claimant was unfairly dismissed.
3. The Respondent shall pay to the Claimant an award of compensation in the sum of £3,411.76.

4. This is calculated as follows:

Basic Award

4.1 A Basic Award of 1680.00.

4.2 This is based on the following information: gross weekly pay of £160; 8 complete years of service at the effective date of termination ('EDT') of 4th June 2016; Claimant aged 48 at the EDT (her Schedule of Loss indicated she was 49 at the EDT but this was incorrect, her DOB being 5th June 1967)); and so a calculation based on 10.5×160 .

Compensatory Award

4.3 A Compensatory Award of £1731.76.

4.4 This is comprised of:

Accrued loss of earnings

4.4.1 Accrued loss of earnings from the EDT to the date of this hearing which is 35 weeks x net weekly pay of £159.41 = £5,579.35.

4.4.2 Less Employment & Support Allowance received from 7th June 2016 to the date of this hearing which is approximately 35 weeks x £134.95 per week = £4,723.25.

4.4.3 Net accrued loss of earnings: £5,579.35 - £4,723.25 = £856.10

Loss of statutory rights

4.4.4 Loss of statutory rights in the sum of £250.

Future loss of earnings

4.4.5 Future loss of earnings from the date of this hearing for a further 26 weeks x net weekly pay of £159.41 = £4,144.66

4.4.6 Less continued receipt of ESA at £134.95 per week for 9 weeks = £1214.55, increasing to £135.55 per week from 11th April 2017 for 17 weeks = £2,304.35, making a total of £3,518.90.

4.4.7 Net future loss of earnings: £4,144.66 - £3,518.90 = £625.66.

Total Award

4.5 £1680 + £856.10 + £250- + £625.66 = the total award of £3,411.76

Recoupment

4.6 The provisions of the Employment Protection (Recoupment of Benefits) Regulations 1996 do not apply, the Claimant being in receipt of contributory ESA.

Employment Judge Tsamados
Date: 15th February 2017

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.