



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms Agnieszka Lewandowska  
**Respondent:** WFM Food London Ltd  
**Heard at:** London South, in public, by CVP  
**On:** 30 November & 1 December 2022  
**Before:** Employment Judge Tsamados (sitting alone)

## Representation

Claimant: Mr C Howells, Counsel  
Respondent: Mr E Chemla, Franchise Director

# JUDGMENT

## Judgment on liability

1. The Claimant was unfairly dismissed;
2. The Claimant suffered unauthorised deductions from wages in respect of statutory sick pay and accrued untaken annual leave;
3. Her complaints in respect of unpaid wages and wrongful dismissal are unfounded.

## Judgment on remedy

The Claimant is entitled to the following awards of compensation payable by the Respondent:

### Unfair dismissal

#### *Basic Award*

4. The Claimant is entitled to a Basic Award of £4,896.
5. This is based on the following: her effective date of termination of 9 November 2021, at age 50, 6 complete years' service, a multiplier of 1.5 for each year of service and her gross weekly pay at the then statutory maximum of £544.

*Compensatory Award*

6. The Claimant is entitled to a Compensatory Award of £17,886.36.
7. This consists of the following:
  - a. Past loss of earnings from 10 November 2021 to 17 September 2022, a period of 44 weeks at her net weekly pay of £446 = £19,624;
  - b. Loss of pension contributions of £55 per month, which multiplied by 12 and divided by 52 is £12.60 per week multiplied by 44 weeks = £558.36;
  - c. Loss of statutory rights of £500;
  - d. LESS 6 weeks payment in lieu of notice at net weekly pay of £446 = £2,796<sup>1</sup>

*ACAS Uplift*

8. This is increased by 20% in respect of the Respondent's unreasonable failure to follow the ACAS Code of Practice 1 Disciplinary and Grievance Procedures (2015).  $20\% \times £17,686.36 = £21,463.63$ .
9. The grand total of the award of compensation is  $£4,896 + £21,463.63 = £26,359.63$ .

*Recoupment*

10. The Employment Protection (Recoupment of Benefits) Regulations 1996 apply. For those purposes I set out the following information:

|   |                        |
|---|------------------------|
| Grand total                                   | £26,359.63             |
| Prescribed element                            | £16,828                |
| Period of prescribed element is from          |                        |
| 9 November 2021 to 17 September 2022          |                        |
| Excess of grand total over prescribed element | £9,531.63 <sup>2</sup> |

11. The amount of the prescribed element is stayed and the Respondent should not pay it to the Claimant until the Jobcentre Plus has served a Recoupment Notice or given written notification that it does not intend to serve a notice.

Unauthorised Deductions from Wages

12. The Claimant suffered unauthorised deductions from her wages in respect of the following:
  - a. Statutory Sick Pay in the sum of £192.69 (the Claimant was off sick from work for a period of 8 weeks, in her final pay slip she received sick pay of

<sup>1</sup> I realised after the hearing that I had not taken this into account and to this extent the figures given at the hearing are amended.

<sup>2</sup> I have also revised the figure of the prescribed element to reflect only the award for past loss of earnings less notice pay received.

£578.11, SSP at the time was £96.35 per week,  $8 \times £96.35 = £770.80$ , the difference between these two sums is £192.69);

- b. Accrued untaken annual leave of 8.78 days in the sum of £1310.94 (the leave year was the calendar year, the Claimant was entitled to 28 days annual leave per year, she had accrued 24.1 days at the effective date of termination, she was paid 12.14 days annual leave in her final wages, leaving a balance of 11.96 days owing at £109.61 per day = £1310.94).
13. This is a total award of £ 1503.63 gross subject to any authorised deductions in respect of income tax and national insurance contributions.

Employment Judge Tsamados  
Date 5 December 2022

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.

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