



EMPLOYMENT TRIBUNALS

Claimant: Miss Lisa Cornell

Respondent: Christine Weston and the estate of the late Patrick Weston, formerly trading as Westons Bakery

Heard at: East London Hearing Centre

On: 19th July 2024

Before: Employment Judge Howden-Evans (sitting alone)

Representation

Claimant: No attendance

Respondent: No attendance

JUDGMENT

Upon there being no attendance by either party, having considered the claim form (ET1) and response form (ET3) and the documents attached to those documents the employment judge's decision is:

1. The correct name of the respondent is Christine Weston and the estate of the late Patrick Weston formerly trading as Westons Bakery.
2. The respondent has dismissed Miss Cornell on grounds of redundancy. Under section 163 Employment Rights Act 1996 it is determined that Miss Cornell is entitled to a statutory redundancy payment from the respondent of **£3,409.25** as calculated at the end of this judgment.
3. The respondent has dismissed Miss Cornell with insufficient notice. The respondent shall pay Miss Cornell **£1,948.14** as damages for breach of contract for lack of notice (notice pay) as calculated at the end of this judgment. This figure has been calculated using gross pay to reflect the likelihood that the claimant will have to pay tax on it as Post Employment Notice Pay.
4. The complaint of unauthorised deductions from wages is well-founded. The respondent made an unauthorised deduction from the claimant's final wages. The respondent shall pay the claimant **£400.00**, which is the gross

sum deducted. The claimant is responsible for the payment of any tax or National Insurance.

5. The complaint in respect of holiday pay is well-founded. The respondent made an unauthorised deduction from Miss Cornell's wages by failing to pay Miss Cornell for holidays accrued but not taken on the date Miss Cornell's employment ended. The respondent shall pay Miss Cornell **£101.60**. The claimant is responsible for paying any tax or National Insurance.
6. It is likely Miss Cornell will face difficulty recovering this debt from the respondent. If Miss Cornell is unable to recover this debt from the respondent, she is referred to section 166(1)a Employment Rights Act 1996, which explains her right to claim payment from the National Insurance Fund.
7. The Employment Protection (Recoupment of Jobseekers Allowance & Income Support) Regulations 1996 do not apply to this award.

REASONS

1. I wish to convey my heartfelt sympathies to Mrs Weston and her family who, through no fault of their own, have experienced unimaginable suffering in recent years. Mr and Mrs Weston both sustained life changing injuries in a car accident in June 2023, following which the respondent business immediately ceased trading. Tragically, by the time of this hearing, Mr Weston had passed away.
2. The respondent has considerable debts following the closure of the business and no means to pay these.
3. Equally, I appreciate Miss Cornell had no choice other than to commence this claim to alleviate the financial pressures she has experienced having lost her employment at short notice.
4. When nobody attended this hearing, I considered whether it was appropriate to continue with the hearing in the absence of the parties. Rule 47 of the Employment Tribunal Rules of Procedure 2013 provides I may continue with the hearing in the absence of parties, having considered the information available to me, after any enquiries that may be practicable.
5. Having considered the overriding objective and the response which effectively accepts the debts are owed but explains the respondent has no means to pay these debts, I have determined it is in the interests of justice to proceed in the absence of the parties, as the documents substantiate each of these claims and the claimant is entitled to recover this debt through the National Insurance Fund (a government body); this will bring the stress associated with these proceedings to an end for both parties.
6. Further, if either party objects to this decision, they are able to apply for the judgment to be reconsidered under rule 70 & 71 Employment Tribunal Rules of Procedure 2013.

7. Miss Cornell, a sales assistant, was continuously employed by the respondent, during the period 15th December 2015 and 1st July 2023. She was 44 years old at the start of her employment and had 7 complete years' service with the respondent by the time of her dismissal. Her salary before tax was £1,407 per month.
8. It is clear the circumstances of Miss Cornell's dismissal amount to a dismissal by reason of redundancy (see Section 139 (1)a(i) Employment Rights Act 1996). Miss Cornell has not received any redundancy payment from the respondent.
9. Miss Cornell was paid 1 weeks' pay in lieu of notice, but Section 86 Employment Rights Act 1996 explains she was entitled to 7 weeks' notice, having worked for the respondent for more than 7 years.
10. I apologise for the delay in sending this judgment to the parties; whilst it is no excuse this has been an exceptionally busy period for the judge.

**Employment Judge Howden-Evans
Dated: 23 December 2024**

Calculations

Miss Cornell's weekly gross pay = £324.69 (£1,407 x 12 /52)

Statutory Redundancy Payment

(calculated in accordance with s162 Employment Rights Act 1996)

1.5 week's gross pay for each of the 7 years in which Miss Cornell was aged 41 and over:

$$1.5 \times 7 \times \text{£}324.69 =$$

$$\text{Redundancy Payment} = \quad \quad \quad \textbf{£3,409.25}$$

Notice Pay

Miss Cornell was entitled to 7 weeks' notice / notice pay and was only paid 1 week's notice

$$6 \text{ weeks} \times \text{£}324.69 = \quad \quad \quad \textbf{£1,948.14}$$

Unpaid wages

$$\text{Unauthorised deduction from final pay} = \quad \quad \quad \textbf{£400.00}$$

Holiday Pay

Holiday accrued when employment ceased which remains unpaid =

$$\textbf{£101.60}$$

$$\textbf{Total amount owed to Miss Cornell = £5,858.99}$$