



EMPLOYMENT TRIBUNALS

Claimant:
Mr S Gill

v

Respondent:
RR Impex Ltd

Heard at: Reading

On: 13 September 2017

Before: Employment Judge S Jenkins

Appearances

For the Claimant: In person

For the Respondent: No attendance or representation

REMEDY HEARING

JUDGMENT

1. The Respondent is ordered to pay the Claimant the gross sum of £1,153.85 in respect of the Claimant's claim for breach of contract.
2. The Respondent is ordered to pay the Claimant the sum of £1,269.24 in respect of the unfair dismissal basic award.
3. The Respondent is ordered to pay the Claimant the sum of £10,073.95 in respect of the unfair dismissal compensatory award.
4. The Respondent is ordered to pay the Claimant the sum of £2,225.00 in respect of costs.

REASONS

Background

1. The hearing was listed to deal with the issue of remedy arising from the Judgment I made in favour of the Claimant at a hearing on 16 March 2017. The hearing was also to deal with a costs application that the Claimant had subsequently made.
2. By way of background, the issue of remedy was reserved following my Judgment sent to the parties on 18 April 2017 as the Respondent, at the initial hearing, indicated that it was in the process of issuing civil

proceedings against the Claimant, the evidential findings in relation to which would need to be taken into account in relation to remedy. I ordered in my initial Judgment that the Respondent was to notify the Tribunal of the commencement of civil proceedings upon issue or, if not issued, to notify the tribunal of that fact by 16 May 2017. In the event, the Respondent's then representatives wrote to the tribunal on 18 May 2017 noting that they were no longer acting for the Respondent. No further communication has been received from or on behalf of the Respondent at any stage.

3. No-one from the Respondent was present at the tribunal at the time of commencement of the hearing and the Claimant confirmed that he had had no contact with the Respondent since the hearing in March and that, whilst he had engaged sheriffs to enforce the limited monetary judgment I ordered following that hearing, they had been unable to make contact with the Respondent and had not been able to enforce that award. In the circumstances, and taking that information into account, I considered that it was appropriate to proceed with the hearing exercising my powers under Rule 47 of the Employment Tribunal (Constitution and Rules of Procedure) Regulations 2013.

Findings

4. I then heard evidence from the Claimant on oath who confirmed that he had been employed by the Respondent for just over five years, between 8 August 2011 and 4 October 2016. He had been aged 42 at the point of dismissal. Whilst working for the Respondent, he had received a salary of £12,000.00 per annum for 30 hours' work per week which led to a net monthly pay of £897.02, which I then calculated as amounting to a net sum of £207.00 per week.
5. In relation to mitigation, the Claimant confirmed that he had undergone a period of depression following his dismissal but had been able to get a new job as a warehouse/driving operative from 1 May 2017. This was only between the hours of 10.00 am and 2.00 pm, i.e. 20 hours per week, at a gross sum of £7.95 per hour. The Claimant confirmed that this amounted to some £635.00 per month net which I calculated to amount to £146.54 per week on a net basis.
6. The Claimant confirmed that he was currently in a probation period with his new employer which would expire on 31 October 2017 but he then hoped to get his hours increased from 1 November 2017 to work between 9.00 am and 3.00 pm every day, i.e. 30 hours per week, which is the maximum that he could work due to his caring responsibilities for his primary school aged children. I was satisfied that, in the circumstances, the Claimant had made appropriate efforts to mitigate his losses.
7. The Claimant also confirmed that he had been in receipt of Universal Credit during the period of unemployment, but he also pointed out that he had been in receipt of Universal Credit, to a not dissimilar level, whilst he had been in the Respondent's employment. I indicated to the Claimant

however that I needed to record the receipt of state benefits for the purposes of recoupment.

Conclusions

8. Applying my findings above, I therefore made the following orders in the Claimant's favour:-

8.1 I ordered that the Respondent should pay the Claimant the gross sum of £1,153.85 in respect of the Claimant's entitlement to five weeks' notice.

8.2 With regard to unfair dismissal, I made the following awards:

<u>Basic award</u>	<u>£1,269.24</u>
<u>Compensatory award</u>	
Net average Wages of £207.00 per week From 4 October 2016 to 16 March 2017	£4,843.80
Increase under section 124A Employment Rights Act (the "ERA") of 25%	£1,210.90
<u>Prescribed element</u>	<u>£6,054.75</u>
<u>Non-prescribed element</u>	
Future loss of wages from 17.3.17 to 31.1.17 32.2 weeks	£2,855.36
Increase under section 124A ERA of 25%	£713.84
Loss of statutory rights	£450.00
<u>Total non-prescribed element</u>	<u>£4,019.20</u>
<u>Grand total</u>	<u>£11,343.19</u>
(A) Total monetary award	£11,343.19
(B) Prescribed element	£6,054.75
(C) Period of prescribed element	
FROM: 04.10.2016 TO	16.03.2017
(D) Excess of (A) over (B)	£5,288.44

8.3 The Claimant indicated that he had pursued a claim that the compensation ordered should be uplifted pursuant to section 207A of the Trade Union and Labour Relations (Consolidation) Act 1992. In the circumstances, as noted in my original Judgment in this case, the Respondent had made no attempt to follow any form of disciplinary procedure in relation to the Claimant, nor was he afforded any opportunity to appeal against the decision that he be dismissed. In the circumstances, I therefore felt that an uplift should be ordered and that it was appropriate to order that uplift at the maximum of 25%.

Costs

- 9. The Claimant made an application for his costs in relation to the proceedings. I indicated that I first of all had to consider whether any of the circumstances set out in Rule 76 had arisen and, if so, whether it was then appropriate to order costs to be paid, then deciding on the appropriate amount.
- 10. In light of my findings in relation to the initial hearing in this case, and the Respondent's subsequent conduct in not pursuing the civil proceedings that it had originally indicated it would bring, I concluded that that did amount to disruptive or unreasonable conduct in the way the Respondent had defended the proceedings and therefore that a costs order was appropriate under rule 76(1)(a). I then saw no reason why I should not make a costs order in the Claimant's favour.
- 11. In relation to the amount of that order, the Claimant had previously sent to the tribunal invoices from his legal representatives totalling £2,100.00. He also confirmed that he had incurred travel costs in respect of his attendance at the hearings in March and this hearing of £50.00 and further expenses in respect of phone calls and copying of £75.00. In the circumstances, I was satisfied that it was appropriate to make a costs order that the Respondent should pay the Claimant the sum of £2,225.00 in respect of his costs under rule 75(1)(a) and (c).

Employment Judge S Jenkins

Date: 25 September 2017

Judgment and Reasons

Sent to the parties on:

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For the Tribunal Office