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# EMPLOYMENT TRIBUNALS

**Claimant:** Mr D Peters

**Respondent:** Complete Currency Ltd

**Heard at:** East London Hearing Centre      **On:** 19 December 2017

**Before:** Employment Judge Speker OBE DL (sitting alone)

## **Representation**

**Claimant:** In Person

**Respondent:** No attendance

# JUDGMENT AT REMEDIES HEARING

## **It is the judgment of the Employment Tribunal that:-**

1. The Respondent shall pay to the Claimant the sum of £5,000.00 in respect of unpaid salary.
2. The Respondent shall pay to the Claimant the sum of £2,499.24 in respect of accrued holiday pay.
3. The Respondent shall pay to the Claimant the sum of £4,960.00 in respect of unpaid pension contributions.
4. In accordance with the above the total sum to be paid by the Respondent to the Claimant is £12,459.24.

## **REASONS**

1. These were claims made by the Claimant arising out of his employment with the Respondent as Director FX Sales from 5 September 2016 to 28 April 2017.
2. The Claimant attended in person and provided to the Tribunal details of his claims supported by some documentation.

3. The Respondent had not filed a response. On 15 November 2017, the time for presenting a response having expired and no valid response having been presented in time and on the basis of information before the Employment Judge, Employment Judge Warren entered judgment for the Claimant in relation to his claims of breach of contract and unpaid wages and determined that the remedies would be assessed at today's hearing.

4. The judgment also indicated that if the Claimant were to provide to the Tribunal a breakdown of the exact sums he was claiming with supporting documents then it may be possible to avoid the need for the hearing on 19 December. The Claimant did not provide any such breakdown in advance of the hearing although he did send an email at 1.32 am on 19 December which was before me at the commencement of the hearing and that email had attached to it one letter to the Claimant from the Respondent, a payslip, documentation with regard to student loan and a copy of the employment contract between the Claimant and the Respondent referring to the date of appointment as 18 July 2016 and a commencement date of 5 September 2016.

5. The Tribunal dealt with the claims made by the Claimant as follows.

#### ***Outstanding wages***

6. The Claimant resigned from his employment on Friday 28 April 2016 and stated that he was willing to work his one month's notice, this notice being set out in clause 23 of the contract. Although the Respondent indicated that they did not require the Claimant to work his one month's notice, this was not a unilateral decision which they could make although they have the right to pay wages in lieu of notice. They did not offer to do this and did not make any payment in relation to that one month's notice period. The sum involved is 1/12<sup>th</sup> of the annual salary of £60,000.00 per annum and accordingly the Tribunal awards to the Claimant the sum of £5,000.00 in relation to unpaid wages. As this is being ordered to be paid gross the Claimant will be responsible for tax and National Insurance on that sum.

#### ***Holiday pay***

7. Under clauses 17 and 18 of the contract the Claimant was entitled to holiday pay. Clause 18 of the contract deals with the calculation of accrued holiday pay. That clause applies to the position of this Claimant from the beginning of January 2017, the commencement of the holiday year, the Claimant had accrued five complete months including the one month of notice. His annual entitlement was 26 days. This produces a figure of 10.83 days. The rate per day on the basis of a salary of £60,000.00 was £230.76 per day. Multiplying this by 10.83 produces a figure of £2,499.24 accrued holiday pay and the Respondent is ordered to pay that sum to the Claimant.

#### ***Pension contributions***

8. Under clause 16 of the contract the company was to contribute a "set amount" monthly in arrears to the Claimant's pension. The documentation produced by the Claimant did not contain any specific agreement as to the level of pension contributions which were to be paid. The evidence of the Claimant was that he specifically agreed with the chief executive officer of the Respondent company, Phillip Peters, that 8%

would be a fair and reasonable figure and the Claimant said that he accepted that figure. He stated that the agreement came out of a conversation in which Mr Phillip Peters referred to 12% and 15% contributions in other employment in which he had been engaged and that for this Claimant a figure of 8% would be a fair balance and the Claimant had agreed that. Although there was no documentary evidence to support this, I find on the basis of the evidence from the Claimant that this was what was agreed.

9. The calculation of the pension contributions therefore is the following:

Pay during employment – 9 months	£45,000.00
Bonus as per clause 14	£17,000.00
Total	£62,000.00
8% equals	£4,960.00

The Respondent is ordered to pay to the Claimant pension contributions due in the sum of £4,960.00.

10. The Claimant did seek to raise a claim for the sum of £250.00 with respect to an instalment of student loan payments. However, as this had not been included in his initial Tribunal Claim Form I find that the Tribunal does not have jurisdiction to award this sum. It is open for the Claimant to seek to recover it in another forum.

11. Accordingly, the total sums to be by the Respondent to the Claimant are as follows:

Unpaid wages	£5,000.00
Accrued holiday pay	£2,499.24
Pension contributions	£4,960.00
Total	£12,459.24

Employment Judge Speker OBE DL

24 January 2018