



EMPLOYMENT TRIBUNALS

Claimant: Mr K Lowe

Respondent: Mason Morley Limited

Heard at: Leeds

On: 23 & 24 April 2018

Before: Employment Judge Starr
Ms Fawcett
Mr Taylor

Representation

Claimant: In person

Respondent: Mr P Clarke

JUDGMENT

1. The Claimant was not at the material time a disabled person within the meaning of section 6 and Schedule 1 of the Equality Act 2010. The Claimant's complaints of discrimination arising from disability under section 15 Equality Act 2010 and of a failure to comply with the duty to make reasonable adjustments under sections 20 and 21 Equality Act 2010 fail and are dismissed.
2. The Claimant's claim of breach of contract (4 weeks' notice pay) succeeds. The Respondent is ordered to pay to the Claimant the sum of £860 (gross) in this respect.
3. The Claimant was unfairly dismissed. The Respondent is ordered to pay to the Claimant unfair dismissal compensation in the total sum of £9,938.17 comprising a basic award of £1,612.50 and a compensatory award of £8,325.67.
4. The Employment Protection (Recoupment of Benefits) Regulations 1996 ("the Regulations") apply in this case. For the purposes of the Regulations the total monetary award in respect of the unfair dismissal award is £9,938.17 net, the prescribed element is £7,000.60, the dates of the prescribed period are 25 July 2017 to 24 April 2018 and the monetary award exceeds the prescribed element by £2,937.57.

5. The Respondent must pay to the Claimant the sums of £860 (gross) plus £2,937.57 (net) on or before 15 May 2018. The balance of £7,000.60 is payable in line with the Recoupment Regulations.

Schedule of Calculations

Notice Pay

4 (weeks) x £215 = £860 gross

Unfair dismissal

Weekly pay: £215

Claimant aged 41 or over throughout the period of employment with Respondent

Basic Award: 5 (weeks) x £215 x 1.5 = £1,612.50

Compensatory award: £8,325.67 based on 38 weeks' net pay (but no more, for the Claimant's failure to mitigate), £400 for loss of statutory rights, deduction for the damages payable for notice pay (above), a 10% decrease for the Claimant's failure to engage with the ACAS early conciliation procedure and a 25% increase against the Respondent for its failures under the ACAS Code pursuant to Section 207A of the Trade Union and Labour Relations (Consolidation) Act 1992.

Employment Judge Starr

Date: 1 May 2018

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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