



# THE EMPLOYMENT TRIBUNALS

BETWEEN

*Claimant*

*Respondent*

Mr P Elliott

AND

Infoteam MS Limited

## JUDGMENT OF THE EMPLOYMENT TRIBUNAL

Held at: North Shields

On: 24 November 2017

Before: Employment Judge O'Dempsey

### *Appearances*

**For the Claimant:** Mr Lott, solicitor.

**For the Respondent:** no appearance

## JUDGMENT

- 1 This is a claim for unfair dismissal and notice pay brought by Mr Paul Elliott. The respondent, Infoteam, had judgment entered against them on 22 September 2017. They indicated in their response that they did not intend to resist the claim. They also did not attend today, the Tribunal staff made efforts to check whether they were going to attend but could not get through to a live number.
- 2 At the start of the hearing I asked the claimant whether he wanted to claim reinstatement or reengagement and he does not. Therefore I go onto give judgment on the amount of compensation that should be awarded for his unfair dismissal.

- 3 Mr Lott helpfully compiled a schedule of loss for the claimant which breaks things down into appropriate component parts and I have been greatly assisted by that.
- 4 Under section 119 of the Employment Rights Act 1996 the claimant is entitled to a basic award. His age at the effective date of termination was 47 and therefore he had four full years of continuous employment as at that effective date of termination which was 7 March 2017. He is therefore entitled to 1.5 x his gross week's pay for each such year of continuous employment. His gross pay was £346.15 per week. That yields a total basic award of £2,076.90. I make no reductions from that basic award.
- 5 Under section 124 of the Employment Rights Act 1996 the claimant is entitled to claim a compensatory award made up of loss to the date of this hearing and an element for future loss. The loss to the date of hearing is based on a period from 7 March 2017 to 24 November 2017 and that is 37.6 weeks. The claimant's net weekly pay was £296.19. This yields a loss to date of £11,136.74. I make no reductions from that element and indeed I make no deductions from any part of the compensatory award.
- 6 The Recoupment Regulations will apply and the prescribed element therefore covers the period from 7 March 2017 to 24 November 2017 and the prescribed element therefore will be £11,136.74.
- 7 Mr Elliott gave evidence before me confirming the contents of his schedule of loss and confirming the bundle of documents put in to show that he had mitigated his loss which consisted of a job search log and various ads for various jobs. Mr Elliott is hopeful that he will obtain work in the near future but as against that he has applied for many jobs, details of which are in the job search log, in the bundle for this hearing, and accompanying adverts. He has had about four or five interviews but has not secured employment after those interviews. So although he described a job in Hartlepool in respect of which he has attained a second interview, and although he is hopeful that he will obtain a new job which will in fact pay higher than his old job I have been persuaded by Mr Lott that this should be balanced against his track record of applying for jobs and not obtaining work so that there will be an element of future loss. I am persuaded on the balance of probabilities he will not obtain work for a period of future loss and doing the best I can based on the information in front of me I am persuaded by Mr Lott the period should be 14.4 weeks which is the amount claimed in the schedule of loss. Working on that basis and working on the basis that Mr Elliott's net wages per week were £296.19 in the job with the respondents this yields a figure for future loss of £4,265.14.
- 8 There do not appear to be any other employment benefits claimed and in particular no pension rights loss is claimed. However there is a claim for loss of statutory industrial rights as it is put. I am going to award £350 for that head of loss.

- 9 The total for the non prescribed element of the loss, so that is future loss and loss of statutory rights, is £4,615.14. The claim for notice pay, which would be four weeks at £296.19, is subsumed in the claim for loss of earnings.
  
- 10 The total award of the basic element and the compensatory element therefore comes to £17,828.78 and that is the award that I make.

**EMPLOYMENT JUDGE D O'DEMPSEY**

**JUDGMENT SIGNED BY EMPLOYMENT  
JUDGE ON  
5 January 2018**