



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

AND

Respondent

MR W RUSSELL

INTERTALENT MUSIC LTD

Heard at: London Central

On: 22 November, 2019

Before: Employment Judge O Segal QC

Representations

For the Claimant: Ms L Millin, Counsel

For the Respondent: Mr N Roberts, Counsel

JUDGMENT

1. The Respondent's application to extend time to enter a response is rejected.
2. The Claimant is awarded the following sums:-
 - 2.1.£8,917, for lost earnings during the months January to March 2019;
 - 2.2.£823 for paid annual leave not taken during that period, pursuant to Reg 14 WTR 1998;
 - 2.3.£1,524 basic award

Totalling **£11,264.**
3. The claim for unpaid bonus is dismissed by consent.
4. The Claimant's application for costs is refused.

REASONS

1. The following are summary reasons in respect of the above Judgment.
2. I rejected the application to extend time to enter a response on the basis that:-
 - 2.1.The extent of the delay beyond the 28 days permitted (a further 73 days) was egregious.
 - 2.2.The explanation for the delay was entirely unsatisfactory.
 - 2.3.The bonus claim could be, and was, determined by reference to documents.
 - 2.4.The issue over the EDT could be determined by reference to documents and/or the defence to the claim that the Claimant had been dismissed was obviously weak.
 - 2.5.The holiday pay claim would be determined purely by reference to the EDT and the effect of Reg. 14 WTR.
 - 2.6.The issues as to why the sum claimed by way of wrongful dismissal/unfair dismissal compensatory award should be reduced or negated by reference to the Claimant's alleged prior repudiatory conduct, would require a two day hearing to resolve; the merits of the Respondent's allegations in that regard were impossible to determine.
 - 2.7.The balance of prejudice was not obviously in the Respondent's favour.
 - 2.8.Overall, taking account of the Kwiksave v Swain guidance, it was a clear case for not permitting the extension.
3. The claim for lost earnings was, as a consequence, in effect agreed.
4. On the material available, I found the EDT to be 29/3/19. The basic award was not in dispute given that finding.
5. I found as a fact that the Claimant had not taken any of his 2019 leave entitlement; the calculation under Reg. 14 as a consequence was straightforward.

6. I rejected the costs application on the basis, in effect agreed, that there were few or no wasted costs incurred given that the Claimant would have had to prove his claims at a short hearing in any event.

7. I thank the parties and their representatives for their cooperation in permitting the final disposal of these claims today.

Employment Judge Segal

Date 22 November 2019

JUDGMENT & REASONS SENT TO THE PARTIES ON

25 November 2019

FOR THE TRIBUNAL OFFICE