



EMPLOYMENT TRIBUNALS

Claimant: Mr C Currer

Respondent: Adil Hussain

Heard at: Leeds

On: 13 March 2020

Before: Employment Judge Licorish

Representation

Claimant: in person

Respondent: no attendance

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21

1. The claimant has withdrawn his complaint of constructive unfair dismissal on the basis that he has not terminated his contract of employment. It is not in the interests of justice to dismiss that complaint.
2. The respondent treated the claimant less favourably because of his race and/or religion by failing to pay him the national minimum wage and suspending him, the suspension being without pay from 10 August 2019. The claimant is awarded the sum of £27,729.87 comprising:

2.1 Past financial loss:

2.1.1 Shortfall in salary at the national minimum wage:

2017/2018: £0.50 per hour x 7 hours per week = £181.50

2018/2019: £0.83 per hour x 31.5 hours per week = £1,307.25

April 2019 to 9 August 2019: £1.21 per hour x 31.5 hours per week x 17 weeks = £647.95

Sub total £2,136.70

2.1.2 Salary from 10 August 2019 to 13 March 2020:

31 weeks x 31.5 hours per week x £8.21 £8,017.07

2.1.3 Accrued annual leave the claimant has been prevented from taking while on suspension: 74.8 hours x £8.21 £614.10

Total past financial loss £10,767.87

Interest on past financial loss

£10,767.87 x 8% x 153.5 days (midpoint) x 1/365 £362.28

Total past financial loss including interest £11,130.15

2.2 Future financial loss:

National minimum weekly wage: £258.61

Less weekly income received from other employment: £120

Ongoing loss: £138.61 per week

52 weeks x £138.61 £7,207.72

2.3 Injury to feelings £8,800.00

Interest on injury to feelings:

£8,800.00 x 8% x 307 days x 1/365 £592.00

Total injury to feelings including interest £9,392.00

3. The respondent has made an unauthorised deduction from the claimant's wages in respect of arrears of pay at the national minimum wage and non-payment of salary from 10 August 2019 to date. No additional compensation is awarded.
4. The breach of contract claim fails and is dismissed for want of jurisdiction on the basis that the claimant's employment has not terminated.
5. The respondent has not failed to pay the claimant's outstanding holiday entitlement under regulation 14 of the Working Time Regulations 1998 because his employment has not terminated.
6. The respondent unreasonably refused to follow the ACAS Code on grievance procedures. As a result, the respondent is ordered to pay the claimant the additional sum of £6,932.47 (being an additional 25% of the claimant's total compensation of £27,729.87 for race and religious discrimination).
7. When proceedings were begun, the respondent was in breach of its duty to provide the claimant with a written statement of employment particulars. It is just and equitable for the respondent to pay the claimant an additional 4 weeks' gross pay (at £258.61 per week) in the sum of £1,034.44.

Employment Judge Licorish
Date: 18 March 2020