



EMPLOYMENT TRIBUNALS

Claimant: Mr L Stuart

Respondent: Greenrod Limited

Heard at: East London Employment Tribunal **On:** 13 July 2020

Before: Employment Judge Burgher

Appearances

For the Claimant: In person

For the Respondent: Did not attend

REMEDY JUDGMENT

The Respondent is ordered to pay the Claimant the total sum of £14,991.27 in respect of his successful claims.

REASONS

1 A default judgment was issued against the Respondent on 3 July 2020, the Respondent having failed to present a response, despite being given an extension of time to do so.

2 The remedy hearing was held by telephone on the BTMeet Me. The Respondent did not attend.

3 I heard evidence from the Claimant who gave evidence under oath having affirmed his witness statement. The Claimant's mother in law, Ms Shirley Taylor also gave evidence on his behalf. She affirmed her witness statement and assisted in the preparation of the Claimant's schedule of loss.

4 The Claimant worked as a Drainage Engineer for the Respondent from 6 June 2016 until his summary dismissal on 13 November 2019. The Claimant earned basic pay of £28,992 plus overtime with Respondent. However, there was not sufficient clarity as to how much overtime he was earning as there were insufficient consistent

payslips to establish this. The Claimant commenced employment with Simpsons (East Anglia) Ltd on 25 November 2019. He earns basic pay of £22,500 plus commission. However, there were insufficient payslips to assess his commission earned. I therefore used the basic pay only for both roles for calculation purposes. The Claimant suffered a net weekly loss of £74.04 from 25 November 2019.

5 When considering future loss of earnings, I decided that future loss to 25 January 2021 was appropriate in addressing the possibility that the Claimant can increase his earnings to what he was being paid by the Respondent at some stage.

6 I increased the financial sums the Claimant is entitled to by 25% to reflect the failure of the Respondent to follow the ACAS dismissal procedure.

7 The Claimant was summarily dismissed for a reason related to his disability the Claimant's mental health. I accept that the Claimant suffered injury to feelings in this regard and award £5500.00 in this respect having regard to the case of De Souza v Vinci Construction (UK) Ltd [2017] EWCA Civ 879 and the Presidential Guidance on injury to feelings awards. Interest at 8% is awarded on this sum.

8 Having considered the evidence and the documents I concluded that it was appropriate to order the Respondent to pay the Claimant the sums calculated and specified below.

1. Details

Date of birth of claimant	03/06/1978
Date started employment	06/06/2016
Effective Date of Termination	13/11/2019
Period of continuous service (years)	3
Age at Effective Date of Termination	41
Remedy hearing date	13/07/2020
Date by which employer should no longer be liable	25/01/2021
Contractual notice period (weeks)	3
Statutory notice period (weeks)	3
Net weekly pay at EDT	438.46
Gross weekly pay at EDT	557.54
Gross annual pay at EDT	28,992.00

2. Basic award

Basic award	1,575.00
Number of qualifying weeks (3) x Gross weekly pay (525.00)	
Less amount for unreasonable refusal to be reinstated	0.00
Less redundancy pay already awarded	0.00
Total basic award	1,575.00
3. Damages for wrongful dismissal	
Loss of earnings	1,315.38
Damages period (3) x Net weekly pay (438.46)	
Less sums obtained, or should have been obtained, through mitigation	-468.32
Earnings	468.32
Simpsons (East Anglia) Ltd (25/11/2019 to 04/12/2019)	468.32
Plus failure by employer to follow statutory procedures @ 25%	328.84
Total damages	1,175.90
4. Compensatory award (immediate loss)	
Loss of net earnings	13,899.18
Number of weeks (31.7) x Net weekly pay (438.46)	
Plus loss of statutory rights	500.00
Less sums obtained, or should have been obtained, through mitigation	-11,551.93
Earnings	11,551.93
Simpsons (East Anglia) Ltd (05/12/2019 to 13/07/2020)	11,551.93
Total compensation (immediate loss)	2,847.25
5. Compensatory award (future loss)	
Loss of future earnings	12,276.88
Number of weeks (28) x Net Weekly pay (438.46)	
Less sums expected to be obtained through mitigation	-10,199.00
Earnings	10,199.00
Simpsons (East Anglia) Ltd (14/07/2020 to 25/01/2021)	10,199.00
Total compensation (future loss)	2,077.88
6. Adjustments to total compensatory award	

Plus failure by employer to follow statutory procedures @ 25%	1,231.28
Plus interest (compensation award) @ 8% for 183 days	142.75
Compensatory award before adjustments	4,925.13
Total adjustments to the compensatory award	1,374.03
Compensatory award after adjustments	6,299.16
7. Non financial losses	
Injury to feelings	5,500.00
Plus interest @ 8% for 366 days	441.21
Total non-financial award	5,941.21
8. Summary totals	
Basic award	1,575.00
Wrongful dismissal	1,175.90
Compensation award including statutory rights	6,299.16
Non-financial loss	5,941.21
Total	14,991.27

9 The total due to be paid by the Respondent to the Claimant is therefore **£14,991.27**.

Employment Judge Burgher
Date: 13 July 2020