



EMPLOYMENT TRIBUNALS

Claimant: Mr Andrew McCully
Respondent: D. Salmon Cars Limited
Heard at: East London Hearing Centre
On: Friday 17 July 2020
Before: Employment Judge Allen QC (sitting alone)

Appearances

For the claimant: Mr Ahmed, counsel
For the respondent: Mr Tahzib, counsel

This has been a remote video hearing which was not objected to by the parties. The form of remote hearing was V: video - fully (all remote) by CVP. A face to face hearing was not held because it was not practicable and no-one requested the same and all issues could be determined in a remote hearing. The documents that I was referred to are in the tribunal file, and in the written submissions, authorities and bundles of documents produced by the parties, which I had before me.

JUDGMENT

1. The Claimant's claim for payment for accrued holiday entitlement upon termination of employment is dismissed upon withdrawal.
2. The Claimant's claim of wrongful dismissal (breach of contract – failure to pay notice pay) fails and is dismissed.
3. The Claimant's claim of unfair dismissal succeeds.
4. The Claimant's compensation for unfair dismissal is adjusted as follows:
 - a. Basic award reduced for conduct under s122(2) ERA 1996 by 40%;
 - b. 'Polkey' reduction of the compensatory award under s123(1) ERA 1996 as follows:

- i. no reduction for 2 weeks;
 - ii. 60% reduction to the loss of earnings for a further 9 months;
 - c. ACAS uplift of the compensatory award under s207A TULR(C)A 1992 of 25%;
 - d. Reduction of the compensatory award for contribution under s123(6) ERA 1996 by 40%.
5. (Taking into account the adjustments as listed above), the Respondent is ordered to pay the Claimant total compensation of £5,473.09 comprising:
- a. a basic award of £1,223.40; and
 - b. a compensatory award of £4,249.69.

Employment Judge Allen QC
Date: 20 July 2020