



EMPLOYMENT TRIBUNALS (ENGLAND & WALES)
LONDON CENTRAL

BETWEEN

Mr A Carr Claimant

-and-

Flowers At Gilding The Lilly Ltd Respondent

Employment Judge: Mr J S Burns

Representation

Claimant: In person

Respondent Mr J Scott-Joynt (Counsel)

Final Hearing held by CVP on 18/9/2020

JUDGMENT

By consent

The Respondent must pay the Claimant notice pay of £749.44 and statutory accrued holiday entitlement on termination £1663.76

Not by consent

The Respondent must pay the Claimant 4 weeks capped pay at £538 = £2152 under section 38 Employment Act 2002 for failing to provide the Claimant with a statement of initial employment particulars under section 1 Employment Rights act 1996 within two months of the beginning of employment or at all.

The total amount is £4565.20 payable by 2nd October 2020.

REASONS

The notice and holiday pay claims were conceded by the Respondent and the amounts agreed by the Claimant.

The Claimant's evidence that he was never provided with a statement of employment particulars or contract, despite asking for one about 7 times, was not challenged. I do not accept the Respondents submission that the text exchange in January 2020 (in which the Claimant sought agreement from the Respondent as to certain of his employment terms, and these were then informally agreed) is a mitigating factor. That was itself caused by and was no substitute for the written terms which were not supplied. This omission was not the only one by the Respondent – the Claimant did not receive payslips correctly or at all and had problems signing on to get state benefits after his employment ended because he found that tax and national insurance had not been paid on his behalf by the Respondent. Thus the failure to provide written terms was part of a wider pattern of flagrant

breach of the law by the Respondent which caused severe difficulties for the Claimant. The only appropriate award under section 38 is 4 weeks' pay.

The above sums covered by this judgment are calculated gross of any tax so any tax responsibilities arising in connection with them will be the Claimants.

J S Burns Employment Judge

London Central

18/9/2020

For Secretary of the Tribunals

date sent to the Parties – 18/09/2020