



EMPLOYMENT TRIBUNALS (ENGLAND & WALES)
LONDON CENTRAL

BETWEEN

Mr Sidiqullah Shafaq

Claimant

-AND-

Smartech Retail Group Ltd

Respondent

Employment Judge:

Mr J S Burns

Representation:

Claimant in person

Respondent:

No ET3 or appearance

Judgment

The Respondent must pay the Claimant **£5019.68** (in respect of salary, holidays and notice pay) by 15/10/2020

The claim of unfair dismissal is dismissed.

Reasons

1. I received evidence on oath from the Claimant and read his ET1 and a statement written by him in support of his unfair dismissal claim.
2. The Claimant was employed as a training manager working 5 days a week from 18/4/2019 at a salary of £1750 gross per month which is £94.98 per working day.
3. On 26/3/2020 his employment was terminated by email, purportedly with effect from 19/3/2020.
4. The effective date of a termination is when it is communicated to the employee so in this case the employment ended on 26/3/2020.
5. The Claimant was paid salary in full until the end of February 2020 but received no pay for the period 1/3/2020 to 26/3/2020 in respect of which he is owed £1750 – (3 x £94.98) = **£1465.06**
6. He was entitled to 28 days paid holidays per year and had accrued an entitlement to 27 days (rounded up) during the period of his employment, of which he had taken and been paid about 8 days, leaving an unpaid balance of 19 days in respect of which he is due 19 x £94.98 = **£1804.62**
7. Under his contracts dated 8/4/2019 and 1/11/2019 the Claimant was entitled to one month's notice on termination. No notice was given so he is due one month's pay in lieu = **£1750**.
8. The above amounts are gross of tax and must be paid as such, with the Claimant on receipt obliged to account to the Inland Revenue for any tax due.
9. The Claimant did not have two years' service and is unable to claim ordinary unfair dismissal. He has not disclosed or suggested any reason why his unfair dismissal claim should fall into a category not requiring such service. In submissions today, he complained that he had been targeted unfairly for personal reasons by Jacov Nachtailer, for example by being suspended

prior to dismissal and by not being selected for furlough, after the end of March 2020. I explained to the Claimant that, however unfair the dismissal might have been from his point of view, he still needed two years' service to be able to bring an ET claim of unfair dismissal, and as he did not have two years' service, his UD claim had to be dismissed.

10. The Claimant in oral submissions referred in passing to discrimination but on questioning by me, did not suggest that he had been discriminated against on the basis of any characteristic protected by the Equality Act 2010, and he had not brought a discrimination claim in his ET1. He did not make any formal application to amend his ET1 to add a discrimination claim but had such an application been made I would have refused it as (i) it would not be supported by the substance of the complaints (ii) it is too late (iii) no good reason is shown for it being brought in the original ET1 (iv) the Respondent is not on notice.
11. The hearing was conducted by CVP. There were no technical problems.

J S Burns Employment Judge
London Central
2/10/2020
For Secretary of the Tribunals

date sent to the Parties – 2/10/20