



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr S Babaei  
**Respondent:** Final Post Limited  
**Heard at:** East London Hearing Centre (by Cloud Video Platform)  
**On:** 11 December 2020  
**Before:** Employment Judge Gardiner  
**Members:** Ms M Long  
Mr B Wakefield

## Representation

**Claimant:** Mr Howard Lewis-Nunn, counsel  
**Respondent:** Ms Theodora Hand, counsel

# JUDGMENT

## The judgment of the Tribunal is that:-

1. The Claimant's unfair dismissal claim under Section 94 Employment Rights Act 1996 is well founded and succeeds. There is to be no reduction in the remedy awarded for contributory conduct or under the principle in *Polkey v AE Dayton Services Limited*.
2. The Claimant's claim for notice pay is well founded. The Claimant is entitled to two weeks' notice pay.
3. The Claimant's claim for unpaid overtime, by way of unauthorised deduction of wages under Section 13 Employment Rights Act 1996 is not well founded and is therefore dismissed.
4. The Respondent has failed to provide the Claimant with a statement of employment particulars, as is required by Section 1 Employment Rights Act 1996. The Claimant's remedy for this failure, under Section 38 Employment Act 2002, is an award of four weeks' pay.

5. There has been a failure to comply with the ACAS Code of Practice in relation to disciplinary procedures. The Tribunal will evaluate the extent of any increase in the award on this basis at the remedy hearing.
6. The Claimant's claim for refusal of the right to be accompanied at a disciplinary hearing brought under Section 10 Employment Relations Act 1999 is not well founded and is dismissed.
7. The Claimant's claim for unpaid holiday pay under Regulation 30 of the Working Time Regulations 1998 is dismissed upon withdrawal.
8. The Claimant's claim for unpaid expenses, as a claim for breach of contract, is dismissed upon withdrawal.
9. There will be a remedy hearing on 28 April 2021 with a time estimate of 1 day.

Employment Judge Gardiner  
Date: 15 December 2020