



# EMPLOYMENT TRIBUNALS

**Claimants:** Mr. D Baker, Mr. D Hill, Mr. G Malin

**Respondent:** Kiely Bros Ltd

## JUDGMENT

### Employment Tribunals Rules of Procedure 2013 – Rule 21

UPON no response to the claims having been received, and upon there being sufficient evidence before me, I make the following determinations pursuant to Rule 21: -

#### Mr. D Baker

1. Mr. D Baker was unfairly dismissed by the respondent.
2. The respondent is ordered to pay the following sums to Mr. D Baker:
  - 2.1 A basic award of £7263 based on 9 years full service and gross pay of £632 per week.
  - 2.2 A compensatory award of £24804 based on 12 months loss of earnings of £2067 net pay per month (8 months past loss and 4 months future loss).
  - 2.3 Compensation for loss of statutory rights in the sum of £350.
3. The Employment Protection (Recoupment of Benefits) Regulations 1996, SI 1996 No 2349, apply. In accordance with those Regulations: (a) the total monetary award made to the claimant is £32,417; (b) the amount of the prescribed element is £16536; (c) the dates of the period to which the prescribed element is attributable are 6 April 2020 to 22 December 2020; (d) the amount by which the monetary award exceeds the prescribed element is £15,881.

#### Mr. D Hill

4. Mr. D Hill was unfairly dismissed by the respondent.
5. Mr. D Hill's claim for disability discrimination is dismissed following a withdrawal of that claim by the claimant.

6. The respondent failed to provide Mr. D Hill with a statement of terms and conditions.
7. The respondent failed to pay Mr. D Hill 2 days of his holiday entitlement
8. The respondent is ordered to pay the following sums to Mr. D Hill:
  - 8.1 A basic award of £1575 based on 3 years full service and gross pay of £573 per week.
  - 8.2 A compensatory award of £13329.08 based on:
    - 8.2.1 6 months past loss of earnings of £1894.01 net pay per month.
    - 8.2.2 6 months past loss of pensions contribution in the sum of £403.52.
    - 8.2.3 Compensation for loss of statutory rights in the sum of £350.
    - 8.2.4 10% uplift for the respondent's failure to follow the ACAS code.
  - 8.3 An award of £2292 based on 4 weeks gross pay for the respondent's failure to provide a statement of terms and conditions.
  - 8.4 2 days unpaid holiday pay in the gross sum of £229.20.
9. The Employment Protection (Recoupment of Benefits) Regulations 1996, SI 1996 No 2349, apply. In accordance with those Regulations: (a) the total monetary award made to the claimant is £17425.28; (b) the amount of the prescribed element is £12500.47; (c) the dates of the period to which the prescribed element is attributable are 1 April 2020 to 22 December 2020; (d) the amount by which the monetary award exceeds the prescribed element is £4924.81.

Mr. G Malin

10. Mr. G Malin was unfairly dismissed by the respondent.
11. The respondent is ordered to pay the following sums to Mr. G Malin:
  - 11.1 A basic award of £4657.50 based on 6 years full service and gross pay of £517.50 per week.
  - 11.2 A compensatory award of £3654 based on 9 weeks past loss of earnings of £406 net pay per week.
  - 11.3 Compensation for loss of statutory rights in the sum of £350.
12. The Employment Protection (Recoupment of Benefits) Regulations 1996, SI 1996 No 2349, apply. In accordance with those Regulations: (a) the total monetary award made to the claimant is £8661.50; (b) the amount of the prescribed element is £3654; (c) the

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dates of the period to which the prescribed element is attributable are 1 April 2020 to 22 December 2020; (d) the amount by which the monetary award exceeds the prescribed element is £5007.50.

Employment Judge Meichen  
22 December 2020