



EMPLOYMENT TRIBUNALS

Claimant: Mr W Zhu
First Respondent: Mr X Zheng
Second Respondent: Dekon Company Limited
Third Respondent: Dream in Reality Limited (company dissolved)
Heard at: Birmingham Employment Tribunal by CVP
On: 8 February 2021
Before: Employment Judge Cookson sitting alone

Representation

Claimant: In person
Respondents: Did not attend
Translator: Ms Zhang

JUDGMENT

It is the decision of this Employment Tribunal that:

1. The claimant was employed by the first respondent. He was unfairly dismissed contrary to s94 of the Employment Rights Act 1996 (ERA). The claims against the second and third respondent are dismissed.
2. The first respondent breached the claimant's contract of employment when he terminated the claimant's employment without notice. The claimant was entitled to 7 weeks' notice of termination.
3. The first respondent made unlawful deductions from the claimant's wages by failing to pay him for holiday which had accrued but had not been taken when his employment ended, and by failing to pay him sales commission payments.
4. The first respondent failed to provide the claimant with written particulars of his employment and accordingly the claimant is entitled to compensation in accordance with section 38 of the Employment Act 2002. In the circumstances it is just and equitable for this award to be the higher amount of 4 weeks' pay in accordance with s38(3) and (4);

5. The claimant is entitled to be paid by the first respondent:

- a. In respect of the unlawful deduction of holiday pay, the gross sum of £2,202.48;
- b. In respect of the unlawful deduction sales commission, the sum of £1,179 net of tax and national insurance;
- c. As damages for breach of contract, the sum of £4,222.61 net of tax and national insurance;
- d. In respect of his unfair dismissal;
 - i. a basic award of £4,462.50 and
 - ii. a compensatory award of £40,903.08;
- e. In respect of the award under s38(3) and (4), the sum of £2,100.

Employment Judge Cookson
Date 8 February 2021

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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