



# EMPLOYMENT TRIBUNALS

**Claimant:** J Dos Santos  
G Da Costa

**Respondent:** K Best Partner Ltd (1)  
Christine Choi Lin Soong (2)  
Gao Tou (3)

**Heard at:** VIA CVP **On:** 26 February 2021

**Before:** Employment Judge Noons

## Representation

Claimant: Mr B Large of Counsel  
Respondent: None

# REMEDY JUDGMENT

The Judgment of the Tribunal is that:

1. The second respondent is ordered to pay Mr Dos Santos the net sum of **£2625** in respect of his basic award for unfair dismissal.
2. The second respondent is ordered to pay Mr Dos Santos the net sum of **£9336.93** in respect of his compensatory award for unfair dismissal. This is made up of a net loss of earnings of £6292.98 to which a 15% uplift was applied in relation to the second respondent's failure to comply with sections 33, 40 and 41 of the ACAS Code of Practice Disciplinary and Grievance Procedures 2015. Mr Dos Santos limited the uplift to applying to his net loss of wages only. This sum also includes 4 weeks capped pay of £2100 for failure to provide a section 1 Employment Rights Act statement of terms and conditions.
3. The second respondent is ordered to pay Mr Dos Santos the sum of **£25,000** in respect of breach of contract. This is a gross figure and judgment will be satisfied on payment of the net figure to Mr Dos Santos with the

second respondent accounting to HMRC for tax and national insurance. Mr Dos Santos limited his claim for breach of contract for failure to pay national minimum wage before me today to £25,000 gross. I make no award in relation to his claim for breach of contract for failure to pay pension contributions as this claim was not pursued at liability stage and there is no breach of contract finding in this regard.

4. The second respondent is ordered to pay Mr Dos Santos the net sum of **£697.60** for failing to allow access to records in accordance with S 11 National Minimum Wage Act 1998.
5. The second respondent is ordered to pay Mr Dos Santos the net sum of **£525** in relation to loss of statutory rights.
6. The second respondent is ordered to pay Mr Dos Santos the net sum of **£795.90** under Regulation 14 of the Working Time Regulations in relation to 10 days' holiday pay.
7. The second respondent is ordered to pay Mr Da Costa the net sum of **£1050** in respect of his basic award for unfair dismissal.
8. The second respondent is ordered to pay Mr Da Costa the net sum of **£18,186.36** in respect of his compensatory award for unfair dismissal. This is made up of a net loss of earnings of £13,988.14 to which a 15% uplift was applied in relation to the second respondent's failure to comply with sections 33, 40 and 41 of the ACAS Code of Practice Disciplinary and Grievance Procedures 2015. Mr Da Costa limited the uplift to applying to his net loss of wages only. This sum also includes 4 weeks capped pay of £2100 for failure to provide a section 1 Employment Rights Act statement of terms and conditions.
9. The second respondent is ordered to pay Mr Da Costa the sum of **£24,555.76** in respect of breach of contract. This is a gross figure and judgment will be satisfied on payment of the net figure to Mr Da Costa with the second respondent accounting to HMRC for tax and national insurance. I make no award in relation to his claim for breach of contract for failure to pay pension contributions as this claim was not pursued at liability stage and there is no breach of contract finding in this regard.
10. The second respondent is ordered to pay Mr Da Costa the net sum of **£697.60** for failing to allow access to records in accordance with S 11 National Minimum Wage Act 1998.
11. The second respondent is ordered to pay Mr Da Costa the net sum of **£525** in relation to loss of statutory rights.
12. The second respondent is ordered to pay Mr Dos Santos the net sum of **£2,228.24** under Regulation 14 of the Working Time Regulations in relation to 28 days' holiday pay.

Employment Judge Noons

Date: 26/02/2021