



EMPLOYMENT TRIBUNALS

Claimant: Mr A Porter

Respondents: Paul Pybus Scaffolding Limited

Heard: Remotely (by video link)

On: 5 February 2021

Before: Employment Judge S Shore

Appearances

For the claimant: Mrs J Porter, Lay Representative

For the respondent: Mr S Morris, Consultant

JUDGMENT ON LIABILITY AND REMEDY

1. The claimant's claim of unfair dismissal was well-founded. He was unfairly dismissed for the reason of redundancy. The claimant did not contribute to his own dismissal, so no deduction for compensation was made for contributory conduct. It was inevitable that if the respondent had operated a fair procedure for redundancy, the claimant would have been fairly dismissed after a period of consultation. I find that the appropriate period of consultation would be two weeks.
2. The respondent will pay the claimant compensation for unfair dismissal. Neither re-instatement or re-engagement were sought or were reasonably practicable.
3. No basic award is payable to the claimant because he was dismissed for the reason of redundancy and any basic award has to be set off against any redundancy payment that the claimant has been awarded. I have made an award of a redundancy payment below.
4. I find that the claimant is entitled to a compensatory award calculated as follows:

Immediate Compensatory Award Loss

Loss of earnings from 27 June 2020 to 10 August 2020 (two weeks additional time for consultations) at £334.70 per week = **£669.40**

Future Compensatory Award

The claimant has future loss of his statutory right to protection against unfair dismissal and redundancy = **£350.00**

Total Award

The total award payable by the respondent is £669.40 + £350.00 = **£1,019.40**

5. This is a case to which the provisions of the Employment Protection (Recoupment of Benefits) Regulations 1996 (SI 1996/2349) do not apply.
6. The claimant's claim of unauthorised deduction of wages (week in hand) fails.
7. The claimant's claim of breach of contract (failure to pay the proper sum of notice) succeeds by consent. The respondent will pay the claimant **£163.80** (gross before deduction of tax and National Insurance).
8. The claimant's claim of non-payment of holiday pay (an unauthorised deduction from wages) is well-founded and succeeds by consent. The respondent will pay the claimant **£168.00** (gross before deduction of tax and National Insurance) for accrued holiday pay calculated at the 80% furlough rate and **£63.00** (gross before deduction of tax and National Insurance) for Bank Holiday pay paid at the 80% furlough rate. The total is **£231.00** (gross before deduction of tax and National Insurance).
9. The claimant was dismissed for the reason of redundancy and the respondent shall pay him two weeks' gross pay (at £409.50 per week) x 0.5 = **£409.50**, which is not subject to any deduction for tax and National insurance.
10. The respondent's Employer's Contract Claim is well founded and succeeds. The claimant will pay the respondent **£128.50**. There is no reason why the respondent should not set off this sum against the awards made to the claimant above

Note: This has been a remote hearing. The parties did not object to the case being heard remotely. The form of remote hearing was V - video. It was not practicable to hold a face to face hearing because of the Covid19 pandemic.

Employment Judge Shore

Date 5 February 2021

Note

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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