



EMPLOYMENT TRIBUNALS

Claimant: Mr Diego Burzotta

Respondent: Ristorante Cucina Ltd

Heard at: East London Hearing Centre On: 5 May 2021

Before: Employment Judge S Knight

Representation

Claimant: Roisin Swords-Kieley (Matrix Chambers)
Respondent: Daniella Gilbert (Pump Court Chambers)

JUDGMENT

1. The Respondent unfairly dismissed the Claimant.
2. The Respondent is ordered to pay the Claimant £6,888.96.
3. For the purposes of the Employment Protection (Recoupment of Benefits) Regulations 1996:
 - (1) The total monetary award for unfair dismissal is £6,888.96.
 - (2) The prescribed element is £2,568.40.
 - (3) The prescribed element relates to 17 August 2020 to 5 May 2021.
4. The amount by which the total monetary award for unfair dismissal exceeds the prescribed element is £4,120.56.

REASONS IN RESPECT OF REMEDY

Introduction

1. Reasons in respect of liability were given orally at the hearing.
2. I now in writing give reasons in respect of remedy.
3. The figures below are also set out in the table at Annex 1.

Remedy

4. The Claimant is entitled to a Basic Award and a Compensatory Award.

Basic Award

5. The Claimant's gross weekly pay was £452.57. He had worked for the Respondent for 6 years at the EDT. 4 of those years were when he was over 41. He is entitled to 8 weeks' wages as his Basic Award.
6. Therefore, his **Basic Award is £3,620.56.**

Compensatory Award

7. The Compensatory Award compensates for the losses the Claimant suffered as a result of his dismissal. It is composed of a Prescribed Element (essentially dealing with losses up to the date of the hearing) and a Non-Prescribed Element (essentially dealing with other losses).
8. If the Claimant had not been dismissed then he would have worked normally until 4 November 2020, when there was a lockdown. From the EDT to 4 November 2020 the Claimant lost wages in respect of 80 days. His Basic Award would cover 42 of those days, but he worked for 9 days after he was given his notice. He would have been paid £364.59 net per week. As such, he requires compensation for 49 days (6.7143 weeks) at £364.59 per week. That is £2,447.96.
9. The Claimant would then have worked on reduced hours or been furloughed at 80% pay until 2 December 2020, when there was an end to lockdown. The Claimant lost wages in respect of 4 weeks. He would have been paid £306.86 net per week. As such, he requires compensation for 4 weeks at £306.86 per week. That is £1,227.44.
10. The Claimant would then have worked normally until 19 December 2020, when there was a lockdown. The Claimant lost wages in respect of 17 days (2.4286 weeks). He would have been paid £364.59 net per week. As such, he requires compensation for 2.4286 weeks at £364.59 per week. That is £885.43.
11. The Claimant would then have worked on reduced hours or been furloughed at 80% pay until 22 February 2021, when he got a new permanent better paying job. The Claimant lost wages in respect of 65 days (9.2857 weeks). He would

have been paid £306.86 net per week. As such, he requires compensation for 9.2857 weeks at £306.86 per week. That is £2,849.41.

12. The Claimant's lost pension contributions in respect of 23 weeks at £16.74 per week are £385.02.
13. Against this the Claimant gives credit for £5,226.86 earned since his dismissal.
14. His total lost wages are therefore £2,568.40.
15. There is no other claim which forms part of the Prescribed Element.
16. Therefore, the Prescribed Element is £2,568.40.
17. The Claimant is awarded £500 for loss of statutory rights.
18. The Claimant has no future losses as he now has a better-paying job.
19. Therefore, the Non-Prescribed Element is £500.
20. Therefore, the total **Compensatory Award is £3,068.40.**

Conclusion

21. **The total monetary award for unfair dismissal is £6,888.96.**

**Employment Judge S Knight
Date: 5 May 2021**

