



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr A Gallagher

**Respondent:** Dr Farooq Bajwa trading as Bajwa and Co Solicitors

**Heard at:** London Central (remotely, by cloud video platform)

**On:** 27 May 2021

**Before:** Employment Judge Smailes (sitting alone)

## Appearances

For the claimant: Mr Ohringer

For the respondent: No attendance

## JUDGMENT

The judgment of the Tribunal is that:

1. The name of the respondent is amended to Dr Farooq Bajwa trading as Bajwa and Co Solicitors Ltd, further service dispensed with.
2. The respondent failed to comply with case management orders made on 05 February 2021, and, as a result of the failure to comply with the order to provide documents set out in paragraph 5a of those orders, the respondent's response is struck out in accordance with rule 37(1)(a), (b), and (e) of the Employment Tribunal (Constitution and Rules of Procedure) Regulations 2013, Schedule 1.
3. The claimant's claim of unfair dismissal brought under Part X of the Employment Rights Act 1996 is well founded and succeeds.
4. The respondent was in breach of contract by dismissing the claimant without notice.
5. The claimant did not contribute to his own dismissal.
6. The respondent failed to follow the ACAS Code of Practice on disciplinary procedures. A 25% uplift is therefore attached to the compensatory award and damages for breach of contract.
7. The respondent is ordered to pay to the claimant:
  - a. Compensation for unfair dismissal in the sum of £33,097.78, comprising (i) a basic award of £2,100 and (ii) a compensatory award of £30,997.78;
  - b. Damages for breach of contract of £2,855.56.

8. For the purposes of regulation 4 of the Employment Protection (Recoupment of Benefits) Regulations 1996 (SI 1996/2349):  
The Prescribed Element is: £28,054.58;  
The Prescribed Period is: 25 July 2019 – 27 May 2021;  
The total monetary award is: £35,953.34;  
The excess of the total monetary award of the Prescribed Element is: £7,898.76.
9. The claimant has made an application for costs pursuant to rule 76 of the Employment Tribunal (Constitution and Rules of Procedure) Regulations 2013, Schedule 1, which will be served with this Judgment. The respondent is ORDERED within 21 days of the date that this judgment and Order is sent to him to send written representations on the application for costs. Unless the respondent sets out an objection within his written representations, whereupon a decision as to whether to have a hearing on the application for costs will be made by an Employment Judge, the application for costs will be determined without a hearing.

Employment Judge Smailes

Date: 27 May 2021

JUDGMENT SENT TO THE PARTIES ON

12/07/2021.

FOR THE TRIBUNAL OFFICE

**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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Judgments and reasons for the judgments are published, in full, online at [www.gov.uk/employment-tribunal-decisions](http://www.gov.uk/employment-tribunal-decisions) shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

**ANNEX TO THE JUDGMENT  
(MONETARY AWARDS)**

**Recoupment of Benefits**

The following particulars are given pursuant to the Employment Protection (Recoupment of Benefits) Regulations 1996, SI 1996 No 2349.

The Tribunal has awarded compensation to the claimant, but not all of it should be paid immediately. This is because the Secretary of State has the right to recover (recoup) any jobseeker's allowance, income-related employment and support allowance, universal credit or income support paid to the claimant after dismissal. This will be done by way of a Recoupment Notice, which will be sent to the respondent usually within 21 days after the Tribunal's judgment was sent to the parties.

The Tribunal's judgment states: (a) the total monetary award made to the claimant; (b) an amount called the prescribed element, if any; (c) the dates of the period to which the prescribed element is attributable; and (d) the amount, if any, by which the monetary award exceeds the prescribed element. Only the prescribed element is affected by the Recoupment Notice and that part of the Tribunal's award should not be paid until the Recoupment Notice has been received.

**The difference between the monetary award and the prescribed element is payable by the respondent to the claimant immediately.**

When the Secretary of State sends the Recoupment Notice, the respondent must pay the amount specified in the Recoupment Notice to the Secretary of State. This amount can never be more than the prescribed element of any monetary award. If the amount is less than the prescribed element, the respondent must pay the balance to the claimant. If the Secretary of State informs the respondent that it is not intended to issue a Recoupment Notice, the respondent must immediately pay the whole of the prescribed element to the claimant.

The claimant will receive a copy of the Recoupment Notice from the Secretary of State. If the claimant disputes the amount in the Recoupment Notice, the claimant must inform the Secretary of State in writing within 21 days. The Tribunal has no power to resolve such disputes, which must be resolved directly between the claimant and the Secretary of State.