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EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4104696/2020

Held by means of Cloud Video Platform (CVP) on 7 April 2021

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Employment Judge: Mr J D Young

15 **Colin Faichney**

Claimant:
Represented by:-
Ms J Barnett,
Consultant

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**Be Military Fit Ltd (in Company
Voluntary Arrangement)**

Respondent:-
Not Present
Not represented

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgment of the Employment Tribunal is that the respondent pay the claimant:-

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(1) The sum of **Eight Thousand and Seventy pounds (£8,070.00)** being the sum due to him as a redundancy payment under s135 of the Employment Rights Act 1996; and

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(2) the net sum of **Eight Hundred and Fifty Five pounds and Seventy Two pence (£855.72)** in respect of pay due to him for holidays accrued but untaken to date of termination of employment under regulation 14 of the Working Time Regulations 1998; and

- (3) The claim of unfair dismissal is dismissed.

REASONS

1. In this case the claimant presented claims to the Employment Tribunal complaining that he had been unfairly dismissed and was due a redundancy payment and holiday pay. Those claims were conjoined. It was confirmed at the hearing that the claimant, in recognition of the status of the respondent, withdrew his claim for unfair dismissal. The respondent entered into a Company Voluntary Arrangement under the Insolvency Act 1986 and Hugh Jessiman was appointed supervisor on 17 November 2020.
2. From the evidence given by the claimant I was satisfied that he was dismissed by reason of redundancy from the respondent when they came under financial difficulty and required to discontinue their operations.
3. The effective date of termination of employment was 14 July 2020 and although the respondent had indicated a redundancy payment would be made none was forthcoming.
4. At termination the salary of the claimant ran at the rate of £31,000 gross per annum equating to £596.15 per week. However, the statutory cap on week's pay from 6 April 2020 is £538.00 for the purposes of redundancy pay. The claimant's age and 10 year's service makes for an appropriate multiplier of 15 and the redundancy pay amounts to £8,070.00.
5. I was satisfied from the information provided that the claimant was due 9 days holiday accrued but untaken at date of termination. His net daily pay ran at the rate of £95.08 and so the amount due in respect of this claim is £855.72 which is payable without deduction of income tax or NI contribution.

Employment Judge: Jim Young
Date of Judgment: 04 May 2021
Entered in register: 04 May 2021
and copied to parties