



**EMPLOYMENT TRIBUNALS (SCOTLAND)**

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**Case No: 4104550/2020 (V)**

**Held via Cloud Video Platform (CVP) on 18 November 2021**

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**Employment Judge Murphy**

**Mr J Singh**

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**Claimant  
Represented by  
Ms R Moon,  
Solicitor**

**DVR Private Ltd**

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**Respondent  
Not present  
Not represented**

**JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

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1. The respondent shall pay to the claimant as compensation for unfair dismissal and subject to the Employment Protection (Recoupment of Benefits) Regulations 1996, a monetary award of FOUR THOUSAND EIGHT HUNDRED AND SEVENTY-NINE POUNDS AND NINETY ONE PENCE (**£4,879.91**). The prescribed element is ONE THOUSAND FOUR HUNDRED AND THREE POUNDS STERLING AND SEVENTY EIGHT PENCE (**£1,403.78**) and relates to the prescribed period from 27 July 2020 to 14 September 2020. The monetary award exceeds the prescribed element by THREE THOUSAND FOUR HUNDRED AND SEVENTY-SIX POUNDS STERLING AND THIRTEEN PENCE (**£3,476.13**).

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2. The respondent has made an unauthorised deduction from wages contrary to section 13 of the Employment Rights Act 1996 and is ordered to pay to the claimant the sum of ONE THOUSAND NINE HUNDRED AND FIFTY

ONE POUNDS STERLING AND NINETY THREE PENCE (£1,951.93) in respect of unpaid wages relating to the claimant's period of furlough between 18 March and 27 July 2020.

3. The sum awarded at item 2 is expressed gross of tax and national insurance. It is for the respondent to make any deductions lawfully required to account to HMRC for any tax and national insurance due on the sums, if applicable.
4. The claimant's claim for unauthorised deductions from wages in respect of holiday pay is dismissed under Rule 52, having been withdrawn at the hearing.
5. The claimant brought a claim for breach of contract in respect of the respondent's failure to give the statutory minimum notice period of seven weeks of the termination of the claimant's employment as incorporated into his employment contract by section 86 (4) of the Employment Rights Act 1996. There are no recoverable losses arising from such breach as such losses have been compensated under the claimant's award for unfair dismissal at paragraph 1 above. The claimant's breach of contract claim is, therefore, dismissed.

## REASONS

### Introduction

1. The claimant brought claims as follows:

- (i) A claim for damages for breach of contract in respect of the alleged failure by the respondent to serve the statutory minimum notice period;
- (ii) A claim for unauthorised deductions from wages in respect of accrued untaken holidays outstanding at the termination of his employment;
- (iii) A claim for unfair dismissal;

(iv) A claim for unauthorised deductions from wages in respect of arrears of wages due for the period the claimant was on furlough leave from 18 March to 27 July 2020;

5 (v) An application for an uplift in the claimant's unfair dismissal compensatory award as a result of the respondent's failure to provide the claimant with written particulars of his employment pursuant to section 207A and Schedule A2 of the Trade Union and Labour Relations (Consolidation) Act 1992.

10 2. The respondent did not enter an ET3 response and a judgment on liability was issued under Rule 21 of the Employment Tribunal Rules 2013 on 12 January 2021 in favour of the claimant.

15 3. At the outset of the hearing, the claimant's representative confirmed that the claimant no longer seeks a remedy in relation to the alleged failure to pay holiday pay, and his claim for holiday pay is withdrawn.

4. Ms Moon also confirmed that the claimant seeks compensation for losses in respect of the unserved notice period as part of the compensatory award for unfair dismissal and therefore pursues no remedy for breach of contract, having regard to the principle of double recovery. Ms Moon confirmed the claimant claims 7 weeks' net pay as part of the  
20 compensatory award (and not 2 weeks' pay as listed in the claimant's schedule of loss). Ms Moon further confirmed the claimant seeks no further sums by way of loss of earnings, the claimant having been unfit for work in the subsequent period.

25 5. Ms Moon further confirmed that the claimant no longer seeks an uplift for an alleged unreasonable failure by the respondent to comply with the ACAS Code.

30 6. This hearing on remedy took place remotely by video conferencing. The parties did not object to this format. A face-to-face hearing was not held because of the Covid 19 pandemic and issues were capable of determination by a remote hearing.

7. A notice of the hearing was sent to the respondent's postal address on 6 October 2021. The notice was returned by Royal Mail. The respondent did not attend and was not represented at the hearing. It was elected to proceed with the hearing in the respondent's absence under Rule 47, having considered all information available, including the respondent's failure to enter an ET3, and having made such enquiries as were practicable as to the reasons for the respondent's absence.
8. Oral reasons were given at the hearing. Written reasons will not be provided unless they are asked for by a party within 14 days of the sending of this written record of the decision.

**Employment Judge: L Murphy**  
**Date of Judgment: 18 November 2021**  
**Entered in register: 15 December 2021**  
**and copied to parties**