



EMPLOYMENT TRIBUNALS

Claimant: Mr Y S Butt

Respondents: 1. Mr Sunny Arora
2. SHOP321 Ltd

Heard at: East London Hearing Centre

On: 24 and 25 March 2022

Before: Employment Judge Park

Representation

Claimant: Ms H Moizer (FRU)

Respondents: Mr Sunny Arora

JUDGMENT

1. The claims against the First Respondent are dismissed upon withdrawal by the Claimant. The claims proceeded against the Second Respondent.
2. The Claimant's claim that his average hourly rate of pay for the duration of his employment with the Second Respondent was below the National Minimum Wage and this was in breach of his contract of employment succeeds. The Claimant's total loss relating to the underpayment of wages was £37,627.10 gross which is capped at £25,000. The Second Respondent is ordered to pay the Claimant the sum of £25,000.
3. The Claimant's claim for unfair dismissal succeeds. The Second Respondent is ordered to pay:
 - a. The Claimant had 7 years' complete service when his employment terminated on 28 November 2020. The Claimant was 60 years old when he was dismissed. His average weekly pay, adjusted to take into account what he should have received had he received the National Minimum Wage, was £610.40. At the time he submitted his claim the statutory cap on a week's pay was £538. The Claimant is awarded a basic award of £5,649.00
 - b. The Claimant is awarded a compensatory award of £3,865.99. This is comprised of loss of earnings from 28 November 2020 until 30 January 2021, adjusted to reflect what he would have earned had he

received the National Minimum Wage, and loss of statutory rights, with credit given for the sum of £1,000 already paid by the Second Respondent.

4. The Claimant's claim for holiday pay for the period of 26 February 2020 until 28 April 2020 succeeds. The Second Respondent is ordered to pay the sum of £5,315.00
5. The Second Respondent did not provide the Claimant with a written statement of particulars of employment as required by section 1 Employment Rights Act 1996. The Second Respondent is ordered to pay the Claimant the sum of £1,076, being two weeks' pay.
6. The Second Respondent did not provide the Claimant with itemised pay statements in accordance with section 8 Employment Rights Act 1996 and a declaration is made to that effect.
7. The total compensation the Second Respondent is ordered to pay to the Claimant is the sum of **£40,905.09**.
8. The Employment Protection (Recoupment of Benefits) Regulations 1996, SI 1996 No 2349 apply. The prescribed period is 28 November 2020 until 30 January 2021 and the prescribed element is £3,865.99.

Employment Judge Park
Dated: 25 March 2022