



EMPLOYMENT TRIBUNALS

Claimant: Mr. Charles Instone

Respondent: Phytobrand Ltd.

Date: 13 April 2022

JUDGMENT

1. The Respondent's response to the ET1 is struck out under Rule 37(1)(d) on the grounds that it has not been actively pursued by the Respondent.
2. Judgment for the Claimant on his claims of (i) unfair dismissal under ss.94-98 of the Employment Rights Act 1996 (ii) breach of contract under Rule 21(2).
3. The Respondent shall pay the Claimant the total sum of £55,255 (£1,088 unfair dismissal basic award, £50,000 unfair dismissal compensatory award, £4,167 breach of contract award) under Rule 21(2).
4. Any application by the Respondent or any other interested party to vary or set aside this Judgment (or any part thereof) must be made as soon as reasonably practicable and in any event by no later than 4pm on 27 April 2022.
5. Paras. 1-3 above are stayed until 4pm on 27 April 2022, at which point the stay will automatically expire. In the event of a timely application under para. 4 above, paras. 1-3 above are stayed until the earlier of (i) any further order of the Tribunal (ii) 4pm on 27 July 2022, at which point the stay will automatically expire unless further extended by the Tribunal.

REASONS

1. By an ET1, the Claimant presented claims against the Respondent (no: 11289574) for (i) unfair dismissal under ss.94-98 of the Employment Rights Act 1996 (ii) breach of contract. By its ET3, the Respondent resisted both claims. On 10 December 2021, a preliminary hearing for case management was conducted at London Central Employment Tribunal by video/CVP, at which both parties were represented and at which a final merits hearing was listed on 20-22 July 2022.
2. By a Form 600 (Notice of appointment of liquidator in a members' or creditors' voluntary winding up) dated 22 February 2022 filed at Companies House on 24 February 2022, Mr. Nicholas Cusack of Licenced Insolvency Practitioners Parker

Andrews was appointed as the Respondent's liquidator on 17 February 2022 pursuant to a creditors' voluntary winding up. The Respondent is now in liquidation.

3. By email on 9 March 2022, the Claimant's solicitors asked Parker Andrews for the liquidator's position on the Claimant's Employment Tribunal claim. By email on 9 March 2022, Mr. Andy Barron (Assistant Manager, Parker Andrews) confirmed the Claimant's Employment Tribunal claim will not be defended as part of the liquidation.
4. By an application submitted via email on 19 March 2022 (cc-ed to Mr. Barron and to the Respondent's directors) (the "**Application**"), the Claimant's solicitors applied to the Tribunal for an order:
 - a. striking out the Respondent's response to the ET1 under Rule 37(1)(d) on the basis that the Claimant's claim will not be defended as part of the Respondent's liquidation and/or on the basis that the Respondent has not complied with the Case Management Order dated 10 December 2021 relating to disclosure and a hearing bundle;
 - b. giving judgment on the Claimant's claim under Rule 21(2); and
 - c. ordering the Respondent to pay the total sum of £55,255 to the Claimant (£1,088 unfair dismissal basic award, £50,000 unfair dismissal compensatory award, £4,167 breach of contract award).
5. As of the date of this Judgment (13 April 2022), the Tribunal has not received correspondence from Parker Andrews objecting to the Application or stating any position in relation to it.
6. The Tribunal is satisfied the Respondent has been given a reasonable opportunity to make any representations it wishes to make in relation to the Application before deciding it. No party has requested that the Application be decided at a hearing.
7. The Tribunal is satisfied, based on the material available to it, that the Claimant is entitled to the orders and relief he seeks in the Application and that granting the Application is in accordance with the overriding objective (dealing with cases justly and fairly, dealing with cases in ways proportionate to the complexity and importance of the issues, seeking flexibility in the proceedings, avoiding delay, saving expense).
8. Any application by the Respondent or other interested parties to set aside or vary this Judgment (or any part thereof) must be made by 4pm on 27 April 2022. If a timely application is made, the stay will be extended pending its determination.

Signed (electronically): Employment Judge Tinnion

Date of signature: 13 April 2022

Date sent to parties: 13 April 2022