



EMPLOYMENT TRIBUNALS

Claimant: Mr Graham Davies
Respondent: JMG Joinery Ltd (in voluntary liquidation)
Heard at: East London Hearing Centre (by Cloud Video Platform)
On: 27th April 2022
Before: Employment Judge Travers

Representation

Claimant: Michael Foster, solicitor, of Michael Foster Law
Respondent: The respondent did not attend and was not represented

This has been a remote hearing which has not been objected to by the parties. The form of remote hearing was by Cloud Video Platform. A face to face hearing was not held because the relevant matters could be determined in a remote hearing.

JUDGMENT

The judgment of the Employment Tribunal is as follows:

Liquidation of the Respondent company

1. By letter dated 12th April 2022, the respondent's solicitor informed the tribunal that he had been told by Panos Eliades Callender and Co (Insolvency Practitioners) that the respondent company had applied for voluntary liquidation.
2. In a letter dated 14 April 2022, Panos Eliades Callender and Co (Insolvency Practitioners) informed the claimant's solicitor that it was likely that they would be appointed liquidator of the respondent on 26th April 2022. The letter stated that

despite the fact that they would be appointed liquidator by the time the case is heard, they had no objection to the tribunal hearing the claim and making such orders as appropriate at this hearing. The insolvency practitioners stated that they did not intend to take part in this hearing in any way.

3. The respondent's solicitor confirmed at the outset of the hearing that he had now been informed by Panos Eliades Callender and Co that they have been appointed liquidator of the respondent.
4. In all the circumstances, and mindful of the terms of Part IV of the Insolvency Act 1986, the tribunal finds that there is no restriction on the tribunal proceeding to hear this case and to deliver judgment.

Findings

5. In reaching its decision the tribunal took into account all the evidence and information available to it, including the response forms filed by the respondent. Reasons for the judgment were given orally at the conclusion of the hearing.
6. The tribunal finds that the claimant was constructively dismissed and that the dismissal was unfair.
7. The effective date of the dismissal was 31st October 2021. At the date of dismissal, the claimant had been employed by the respondent for 7 complete years. The claimant was not below the age of 41 in each of the years of employment. The claimant's weekly pay was in excess of the relevant statutory maximum of £544 for the calculation of the basic award for unfair dismissal.
8. The tribunal makes a **basic award for unfair dismissal of £5,712**. This has been calculated pursuant to s119 of the Employment Rights Act 1996 on the basis of 7 [years] x 1.5 [weeks] x £544 [weekly pay].
9. Having carefully considered the evidence presented by the claimant the tribunal does not make any compensatory award in respect of future loss of earnings.
10. The tribunal makes an award of **£400 in respect of the claimant's loss of statutory rights** by reason of his unfair dismissal.
11. The tribunal makes an award of **£6,163.61 in respect of arrears of pay**. In view of the respondent's liquidation and the provisions of s184 of the Employment Rights Act 1996, the tribunal records that the weekly rate of pay on which the arrears have been calculated exceeds the £571 statutory maximum under s186 of the Employment Rights Act 1996. The tribunal notes that on the evidence presented to it at the hearing, if the claimant made a complaint under s188 of the Employment Rights Act 1996 he would be entitled to a payment of £4,568 [calculated on the basis of 8 weeks multiplied by £571].

12. The tribunal makes an award of **£1,117.80 in respect of holiday pay** due to the claimant.

Employment Judge Travers

Date: 27th April 2022