



EMPLOYMENT TRIBUNALS

Claimant

Mr A MacKrill

Respondent

Oxton Farm

Heard at: Leeds by CVP

On: 29 September 2023

Before: Employment Judge Davies

Appearances

For the Claimant:

Ms C Ibbotson (counsel)

For the Respondent:

Did not attend

JUDGMENT

The Respondent has failed to present a response to this claim. Pursuant to Rule 21 Employment Tribunal Rules of Procedure 2013 my judgment is as follows.

1. The Claimant's complaint of unauthorised deduction from wages in respect of the period 21 December 2022 to 7 January 2023 is dismissed on withdrawal by him.
2. The Claimant's complaint of failure to pay him for 0.6 days' holiday accrued but untaken when his employment was terminated is well-founded and succeeds.
3. The Claimant's complaint of wrongful dismissal in respect of notice succeeds. The Respondent acted in breach of contract by dismissing the Claimant without giving him twelve weeks' notice.
4. The Claimant's complaint of unfair dismissal is well-founded and succeeds.
5. The Claimant's complaint that the Respondent unreasonably failed to provide a written statement of reasons for dismissal following a written request by the Claimant is well-founded and succeeds.
6. The Respondent unreasonably failed to comply with the ACAS Code of Practice on Disciplinary and Grievance Procedures and it is just and equitable to increase the Claimant's awards in respect of wages, wrongful dismissal, unfair dismissal and holiday pay by 25%.
7. The Respondent shall therefore pay the Claimant the following sums:
 - 8.1 **£68.68** gross pay for accrued holiday;
 - 8.2 **£17.17** ACAS uplift of 25% on that sum;

- 8.3 **£6,868.56** damages for failure to give 12 weeks' notice (this is a gross sum to reflect the fact that the Claimant is likely to have to pay tax on it);
 - 8.4 **£1717.14** ACAS uplift of 25% on that sum;
 - 8.5 **£11,134.50** basic award for unfair dismissal;
 - 8.6 **£29,763.76** capped compensatory award for unfair dismissal; and
 - 8.7 **£1,142** two weeks' pay for failure to provide written reasons for dismissal.
8. The total sum payable is: **£50,711.81**.
9. Note that the basic award and compensatory award for unfair dismissal have **not** been grossed up. Following *Hardie Grant London Ltd v Aspden* [2012] ICR D6 EAT any grossing up cannot result in the Claimant being awarded a sum higher than the capped amounts.

**Employment Judge Davies
29 September 2023**