



EMPLOYMENT TRIBUNALS

Claimant: Mr M Kulig

Respondent: Smartchoice Dental Construction Ltd

Heard at: By CVP On: 31 October 2023
Before: Employment Judge JM Wade

Appearances

For the claimant: In person

For the respondent: Ms Acheampong, consultant with Mr Clarke, director

Introduction: the claimant was employed as a construction worker for the respondent specialist construction firm. He became ill with back pain and was dismissed after 14 months or so of absence in May 2023, there being no clear date for a return to work. There are no time limit issues in the case. The claimant identified three complaints in his claim form: notice pay, redundancy pay, and disability discrimination. The latter is clearly a complaint of Equality Act Section 15 dismissal. The notice pay complaint was not defended and today the parties were able to agree the correct gross figure, based on payslips for January to March 2022. English is the claimant's second language, but working carefully at today's preliminary hearing we were able to establish that he now realises his redundancy payment claim was in error and it is withdrawn, and he wishes instead to seek a Basic Award for unfair dismissal. That would require me to consider granting permission to amend the claim to add that complaint (having heard from the respondent). I would then give straightforward directions for a final one day hearing in February, albeit with the need for an interpreter and permission to amend the response to address formally the Section 15 complaint (and unfair dismissal if that was permitted). The respondent accepts the claimant was a disabled person by reason of back pain. Consistent with my duty pursuant to Rule 3 I discussed with the parties a Consent Judgment to resolve this case, instead of Orders for a final hearing. The respondent was clear it sought judicial mediation in any event and was content to agree a resolution. A separate time allocation for JM would not be proportionate in this case. The claimant was clear that he sought £5000, being his assessment of his notice and redundancy pay. The parties were in agreement that a consent Judgment was the best way to dispose of the case and a sum based on redundancy pay could be agreed, albeit that complaint was to be withdrawn.

CONSENT JUDGMENT

- 1 The Claimant's notice pay claim is not defended and the respondent shall pay to him the agreed gross sum of £3140.

- 2 The respondent shall further pay to the claimant the agreed gross sum of £1929 in compensation for the termination of his employment.
- 3 The claimant's redundancy payment and disability discrimination complaints are withdrawn and dismissed.
- 4 The total sum payable by the respondent is £5069.

Employment Judge JM Wade

31 October 2023

Judgment sent to the parties on:

For the Tribunal