



EMPLOYMENT TRIBUNALS

Claimant: Mr Arshad Mahmood Shah
Respondent: PYD Packaging Limited
Heard at: Midlands West Employment Tribunal
On: 16 November 2023
Before: Employment Judge Chivers

Representation

Claimant: In person
Respondent: Mr H Li, director.

REMEDY JUDGMENT

1. The respondent is ordered to pay the claimant the sum of £582.85 as damages for breach of contract (failure to pay notice pay) subject to such deductions as it may be entitled to make for tax and national insurance.
2. The respondent is ordered to pay the claimant
 - a. a basic award for unfair dismissal in the sum of £874.27
 - b. a compensatory award for unfair dismissal of £2206.25.

The compensatory award includes an uplift of 25% pursuant to section 207A Trade Union and Labour Relations (Consolidation) Act 1992 because the respondent unreasonably failed to comply with the ACAS Code of Practice on Disciplinary and Grievance Procedures 2015.

3. The respondent is ordered to pay the sum of £5952.05 for failure to pay holiday pay such sum representing the compensation which the Tribunal considers just and equitable in all the circumstances under regulation 30(4) Working Time Regulations 1998.
4. The respondent failed in its duty to provide the claimant with a written statement of the main terms of employment complying with section 1 Employment Rights Act 1996. Pursuant to section 38 of the Employment

Act 2002, the award is increased by the sum of £466.28, being four weeks' gross pay.

5. The Employment Protection (Recoupment of Benefits) Regulations 1996, SI 1996 No. 2349 apply. In accordance with those Regulations,
- (a) the total monetary award made to the claimant is £10,081.70;
 - (b) the amount of the prescribed element is £1515
 - (c) the date of the period to which the prescribed element is attributable are 12 December 2021 to 16 November 2023.
 - (d) the amount by which the monetary award exceeds the prescribed element is £8566.70

Employment Judge Chivers

Date 23rd November 2023

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

SCHEDULE**Breach of contract In Relation To Notice Pay**

The claimant had 5 complete years' service and was entitled to 5 weeks' notice.
 $5 \times £116.57 =$ £ 582.85

Unfair dismissal**(I) Basic Award**

5 years x 1.5 x £116.54 £ 874.27

(II) Compensatory Award

Loss of statutory rights:	£250	
Loss of earnings:	£1515	
Future Loss	No award	
Increase of 25% to reflect ACAS uplift	£441.25	
		£ 2206.25

Holiday Pay

Failure to permit the claimant to exercise the right to paid annual leave under the Working Time Regulations 1998.

Period from 6 April 2021 to termination date (0.69 of total year)

$0.69 \times 5.6 \text{ weeks} = 3.86 \times \text{weekly wage of } £122.53$ £472.97

6 April 2020 - 5 April 2021

Salary of $£11,283.66/52 \times 4 =$ £867.96

6 April 2019 – 5 April 2020

Salary of $£11,879.87/52 \times 4 =$ £913.84

6 April 2018 – 5 April 2019

Salary of $£15,753.96/52 \times 4 =$ £1211.84

6 April 2017 – 5 April 2018

Salary of $£21,772.50/52 \times 4 =$
 £1674.80

Start date to 5 April 2017

(0.66 of total year) $0.66 \times 4 = 2.64$

(Salary of $£10,440/34 = £307.06 \times 2.64 =$ £810.64

Failure to provide a section 1 statement -

4 weeks x £116.57 £ 466.28

Total: £ 10,081.70