



EMPLOYMENT TRIBUNALS

Claimant: Mr A Walder

Respondent: Mr J Edwards

Heard at: Watford (over Cloud Video Platform) **On:** 26 April 2024

Before: Employment Judge Dick

Representation

Claimant: Did not attend

Respondent: Did not attend

JUDGMENT

RULE 21

1. The claim of unfair dismissal is well-founded. The claimant was unfairly dismissed by the respondent.
2. Remedy is to be determined at a public hearing under rule 21, at the next date which is convenient for the Tribunal. The respondent is entitled to receive notice of the next hearing, though he may only participate in it to the extent permitted by the Employment Judge who hears the case.

REASONS

1. No response has been presented to this claim. The case was listed for a public hearing under rule 21. Neither party attended. Given the respondent's lack of engagement with the case so far, I did not think it appropriate to make any further enquiries about his whereabouts. I did ask my clerk to make attempts to contact the claimant; his voicemail and email went unanswered. By the end of the afternoon I had heard nothing more.
2. I considered whether to exercise my power under rule 47 to dismiss the claim in the claimant's absence, but given his previous engagement with the case I did not think that appropriate.
3. I then considered my power to issue a judgment under rule 21. I considered that, on the material available to me, the complaint of unfair dismissal was well-

founded. The claimant's case, to which there was no response, is set out in his claim form. His employer purported to go through a redundancy process, which the claimant concluded was a sham, since, after his employment ended, he discovered that what had been his duties were now being done by two other people. On the available evidence, then, the respondent had not shown that the dismissal was wholly or mainly attributable the fact that the requirements of his business for employees to carry out the work of the particular kind the claimant was doing had ceased or diminished (see s 139 Employment Rights Act 1996 "ERA"). No potentially fair reason for the dismissal having been shown (see s 98 ERA), the dismissal was therefore unfair.

4. I also considered whether on the face of the claim form there was a complaint of some form of disability discrimination. The claimant had not ticked the applicable box in part 8 of the claim form for making such a complaint. This however is not determinative and the claim form must be looked at as a whole. In part 15 of the form the claimant explains that he believes that he was dismissed because he had taken more sick days than usual as a result of a particular illness. The claimant did not refer to this illness as a disability and, more significantly, did not include any information which would be sufficient to lead the Tribunal to conclude that he had a physical impairment which had a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities (see section 6 of the Equality Act 2010). I therefore concluded that there was no complaint of disability discrimination.
5. So far as remedy is concerned, I did not have sufficient information on which to decide the appropriate award for damages for unfair dismissal. The claim form does not include the following information, which would be necessary for the Tribunal to make an appropriate award: monthly or weekly pay (net and gross); estimated or precise values of the use of the cottage and the company vehicle (net and gross); why the claimant was planning to leave his employer in September 2024; estimated or precise value for loss of pension.
6. I also note that within his estimate of £36,000 for the total value of the claim the claimant seeks damages for stress and anxiety. It is however not possible to award such damages in an unfair dismissal claim.
7. I have ordered that the case is listed for a public remedy hearing under rule 21, at the next date which is convenient for the Tribunal. The claimant must provide the missing information referred to in paragraph 5 above to the Tribunal not less than seven days before the final hearing. The claimant is warned now that if he fails to provide that information the Tribunal may consider striking out his claim at the next hearing, even though I have entered judgment in his favour today.

Employment Judge Dick
20 May 2024

JUDGMENT & REASONS SENT TO THE PARTIES ON
12/6/2024

FOR THE TRIBUNAL OFFICE – N Gotecha

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