



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Mr Ben Wheeler

AND

Respondent

MIRACL Technologies Limited
(In Creditors' Voluntary Liquidation)

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD REMOTELY

ON

26 April 2024

By Cloud Video Platform (CVP)

EMPLOYMENT JUDGE N J Roper

Representation

For the Claimant: In person

For the Respondent: Did not attend

JUDGMENT

The judgment of the tribunal is that:

1. The claimant succeeds in his claim for breach of contract in respect of three months' notice and the respondent is ordered to pay the claimant the net sum of £15,348.00; and
2. The claimant also succeeds in his claim for breach of contract in respect of seven days' agreed holiday pay and the respondent is ordered to pay the claimant the gross sum of £2,692.34; and
3. The Employer's Contract Claim is dismissed on withdrawal by the respondent.

REASONS

1. In this case the claimant Mr Ben Wheeler brings a monetary claim for breach of contract in respect of agreed payments for notice and holiday pay against his ex-employer MIRACL Technologies Limited. The respondent originally opposed the claim, and it entered an Employer's Contract Claim in reply. The respondent company entered Voluntary Creditors Liquidation on 6 February 2024, and no longer defends the claim and has now withdrawn the employer's contract claim.
2. This has been a remote hearing which has been consented to by the parties. The form of remote hearing was by CVP Video. A face-to-face hearing was not held because it was not

practicable, and all issues could be determined in a remote hearing. The documents to which I was referred are in a bundle provided by the parties, the contents of which I have recorded. The order made is described at the end of these reasons.

3. I have heard from the claimant. The respondent did not attend, but by email dated 25 April 2024 Mr Griffin of the respondent confirmed that the claim is no longer defended, and the employer's contract claim is now withdrawn. I found the following facts proven on the balance of probabilities.
4. The claimant was employed by the respondent as Enterprise Sales Director from 13 June 2022 until 22 May 2023. The parties agreed and signed a written contract of employment. Following the successful completion of a probationary period of three months the agreed notice period for both parties to terminate employment under clause 3.6 was three months. Under clause 3.7 respondent reserved the right to terminate the claimant's employment with immediate effect provided that a notice payment was made in lieu of notice. This payment was expressed to be three months' net pay, together with a payment in respect of holiday entitlement that would have accrued during the lost notice period. The agreed annual salary was £100,000. Under clause 7.1 the agreed holiday entitlement was 28 days in each calendar year. This meant that the claimant was entitled to seven days holiday pay for the lost three months' notice period (because it equates to one quarter of the year) Under clause 7.5 the value of each day's holiday was agreed at 1/260th of the agreed salary. This is £384.62 per day gross, or £2,692.34 for the seven days.
5. The claimant's employment was terminated with immediate effect on 22 May 2023 in reliance on the above provisions, but the respondent has failed to make the agreed payments to the claimant.
6. Having established the above facts, I now apply the law.
7. The claimant's claim for breach of contract is permitted by article 3 of the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994 ("the Order") and the claim was outstanding on the termination of employment. The respondent's employer's contract claim in reply was presented under Article 4 of the Order, but it is now dismissed on withdrawal.
8. In breach of contract the respondent failed to pay the claimant three months' net pay. The claimant's net monthly pay was £5,116.00. This is a total of £15,348.00 for the three months.
9. In breach of contract the respondent also failed to pay the claimant the agreed sum for holiday pay consisting of seven days at £384.62 per day, which is a total £2,692.34 gross.
10. Accordingly, the claimant succeeds in his claim and the respondent is ordered to pay the claimant damages for breach of contract in the net sum of £15,348.00 for three months' notice pay, and the gross sum of £2,692.34 for seven days' holiday pay. This is a total payment of £18,040.34.

Employment Judge N J Roper
Dated: 26 April 2024

Judgment sent to Parties on
16th May 2024

For the Employment Tribunal