



EMPLOYMENT TRIBUNALS

Claimant: Mr Paul Stokes

Respondent: Herongrange Manpower Direct Limited

Before: Employment Judge Hutchinson (sitting alone)

JUDGMENT

Employment Tribunal Rules of Procedure 2013 – Rule 21

A JUDGMENT having been sent to the parties on 9 February 2024 and written reasons having been requested in accordance with Rule 63(3) of the Employment Tribunal Rules of Procedure 2013, the following reasons are provided.

REASONS

1. The Claimant presented his claim to the Tribunal on 18 August 2023. He said that he had been employed by the Respondent from May 2016 until his dismissal on 9 May 2023. He had been invited to an investigation meeting which was conducted on 20 April 2023 and subsequently attended a disciplinary hearing on 5 May 2023 and was dismissed on the 9 May 2023 for allegations of gross misconduct.
2. The Respondent had not filed an ET3, and I decided that it was appropriate in accordance with rule 21 of the Employment Tribunal Rules of Procedure to issue a default judgment.
3. In the documents that he provided for the Tribunal the statement of particulars of his employment indicated that he had commenced his employment with the Company on 12 May 2016. At the date of his dismissal therefore he had 6 complete years' service with the Company.
4. I was informed of the following key information relevant to his schedule of loss:

- 4.1. Gross weekly basic pay £673.08.
- 4.2. Net weekly basic pay £535.05.
- 4.3. Respondent's annual pension contributions £2,013.24.
- 4.4. Contractual notice period 7 weeks claimed but only entitled to 6 weeks.
- 4.5. Claimant's date of birth 6 January 1965.
- 4.6. Employment with the Respondent from 12 May 2016 until 9 May 2023.
- 4.7. Effective date of termination 20 June 2023.

Basic Award

- 5. I agreed that his basic award was $7 \text{ years} \times 643 \times 1.5 = £6,751.50$.

Notice Pay

- 6. The Claimant is entitled to 6 weeks' notice pay $\times £535.05 = £3,210.30$.
- 7. There is no entitlement to uplift in respect of a claim for breach of notice.

Compensatory Award

- 8. Compensation is calculated from the end of his notice period which was 20 June 2023. His net loss of pay is therefore 35 weeks $\times £535.05$ amounting to £18,726.75. Loss of pension benefit is £1,587.36 making a subtotal of £20,314.11.
- 9. Add loss of statutory rights £500 loss to hearing equals £20,814.11.
- 10. Less mitigation as set out in the schedule of loss is £19,476.05.
- 11. Total financial loss to date of hearing is £1,338.06.
- 12. I decided not to award an uplift of 25%. The Claimant had by his own admission attended an investigatory hearing and a disciplinary hearing and any uplift for failure to comply with the ACAS Code of Practice in my view should have been limited to 10%.
- 13. The uplift therefore on the compensatory award was £133.81.
- 14. Total compensatory award is therefore £1471.87.
- 15. Interest is not payable on these awards and the total amount the Claimant was entitled to was **£8,223.37**.

Employment Judge Hutchinson

Date: 6 March 2024

JUDGMENT SENT TO THE PARTIES ON
14th March 2024

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