



EMPLOYMENT TRIBUNALS

Claimant: Mr C James

Respondent: RGM Security Limited

Heard at: Cardiff Employment Tribunal

On: 7 January 2022

Before: Employment Judge R Evans

Representation

Claimant: In person

Respondent: S Tuppen (Solicitor)

JUDGMENT

1. The Claimant's claim for unfair dismissal is well-founded and succeeds.
2. There is:
 - a. the Claimant would have been dismissed four weeks from the date of dismissal had a fair process been undertaken, the principles in *Polkey v. AE Dayton Services Ltd* [1987] UKHL 8 applied;
 - b. a 25% uplift on the Claimant's compensatory award owing to the failure to comply with the ACAS *Code of Practice on Discipline and Grievance Procedures 2015*; and
 - c. a deduction of 60% to the basic and compensatory awards pursuant to *sections 122(2) and 123(6) Employment Rights Act (ERA) 1996* owing to the Claimant having contributed to his dismissal.
3. The Claimant's complaint of wrongful dismissal/breach of contract (notice pay) is not well-founded and is dismissed.
4. No decision was made as to loss of statutory rights, that issue to be determined at the next Hearing.

5. This judgment was made and took effect on 7 January 2022.
6. The case is listed for a Hearing to determine the duration of the Claimant's employment and Remedy on the **first open date on or after 1 March 2022 (t/e one day)** with the following directions:
 - a. The Claimant shall by **18 February 2022** send to the Tribunal and the Respondent (i) an up-to-date Schedule of Loss which shall set out the amounts that he is claiming for unfair dismissal and the calculations for those sums; (ii) a statement explaining his employment history which shall address why he says he was continuously employed from 2003 as per his Form ET3; and (iii) details of any benefit claims made from 29 March to 1 June 2021.
 - b. The Respondent shall by **18 February 2022** send to the Tribunal and the Claimant a statement addressing the duration of the Claimant's employment and in particular when it is said that his employment commenced.
 - c. The parties shall by **18 February 2022** send to the Tribunal and each other any documents that they rely upon to support their assertion in respect of the commencement of the Claimant's employment with the Respondent.
 - d. The Respondent shall by **two working days prior to the next Hearing** send to the Tribunal and the Respondent an electronic composite bundle containing the documents referred to above.
 - e. The parties have been warned that they must comply with the directions above and a failure to do so may result in the Hearing proceeding in any event and that their participation may be limited.
 - f. The Hearing shall be an **attended in-person Hearing**.
 - g. The next Hearing shall be listed before **Employment Judge R Evans (if available)**.

Signed by Employment Judge R Evans

7 January 2022

JUDGMENT SENT TO THE PARTIES ON 13 January 2022

FOR THE TRIBUNAL OFFICE Mr N Roche

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.