



EMPLOYMENT TRIBUNAL

Claimant: Mr. Peter Tyrrell

Respondent: Terra-Cotta Warriors Ltd.

Heard at: London Central ET (via video/CVP)

On: 10 December 2021

Hearing type: Final Hearing (Merits)

Before: Employment Judge Mr. A. Tinnion

Appearances: For Claimant: In person
For Respondent: No attendance / representation

JUDGMENT

1. The Respondent's name is amended from Terra-Cotta Warrior Ltd. to its correct legal name of "*Terra-Cotta Warriors Ltd.*" (as stated in the Respondent's ET3).
2. Based on the information available, it is appropriate for the Tribunal to exercise its discretion under Rule 47 to determine the Claimant's complaints at today's Final Hearing in the Respondent's absence.
3. The Claimant's complaint of breach of contract (30 days contractual notice pay following his summary dismissal on 27 November 2020) is well-founded.
4. The Respondent having unreasonably failed to comply with the ACAS Code of Practice on Disciplinary and Grievance Procedures which applied in respect of the Claimant's dismissal, the Tribunal considers it just and equitable to exercise its power under s.207A of the Trade Union and Labour Relations (Consolidation) Act 1992 to increase the Claimant's award for breach of contract by 25%.
5. The Respondent shall pay the Claimant the sum of £2,342.80 for breach of contract, calculated as follows:
 - (a) Claimant's contractual entitlement to notice of termination of employment as of 27 November 2020 – 30 days;
 - (b) Claimant's contractual wage entitlement for 30 day period - £1,874.24;
 - (c) additional 25% sum payable following ACAS uplift - £468.56.

6. The Claimant's complaint under s.14(2) of the Working Time Regulations 1998 for untaken holiday leave pay owed at the date of his dismissal on 27 November 2020 is well-founded. The Respondent shall pay the Claimant the sum of £460.09, calculated as follows:
- (a) period of employment – 23 August 2020 to 27 November 2020 (96 days)
 - (b) holiday entitlement – 28 days leave per year
 - (c) holiday leave accrued during 96 day period – 7.36 days
 - (d) holiday taken during 96 day period – 0 (zero)
 - (e) value of 7.36 days untaken leave - £460.09 (7.36/30 x £1874.24)

Note

1. The information before the Tribunal regarding the Respondent's non-attendance at today's Final Hearing was as follows:
 - (a) para. 1 of the Case Management Order sent to the parties on 12 August 2021 stated the final hearing will take place by video/CVP on 10 December 2021 starting at 10am;
 - (b) a Notice of Hearing sent to the parties dated 5 November 2021 also stated the claim will be heard by video/CVP on 10 December 2021 at 10am;
 - (c) when no representative from the Respondent attended today's Final Hearing via video/CVP, Tribunal clerk 'ET' emailed the Respondent but received no response;
 - (d) having seen the relevant emails, the Tribunal was satisfied that the Claimant had timely complied with the directions in the Case Management Order sent to the parties on 12 August 2021 requiring actions on his part;
 - (e) the Tribunal was not satisfied that the Respondent had complied either on a timely basis or at all with the directions in the Case Management Order sent to the parties on 12 August 2021 requiring actions on its part (disclosure of documents, witness statements, Respondent to send electronic copies of the hearing papers to the Tribunal by 8 December 2021).
2. Reasons for the Judgment above having been given orally at the hearing, written reasons will not be provided unless a request is made by either party at the hearing or within 14 days of the sending of the written record of the decision. If no such request is received, the Tribunal will provide written reasons for the decision only if requested to do so by the Employment Appeal Tribunal or a court.
3. Employment Tribunal decisions, judgments and reasons are published online after a copy has been sent to the relevant claimant(s) and respondent(s).

Signed EJ Tinnion
Date of signature: 10 December 2021
Date sent to parties: 10 - December 2021