



EMPLOYMENT TRIBUNALS

Claimant: Mr J A Melville

Respondent: BBA Remanufacturing Ltd in voluntary liquidation
Mr C D Swan
Mrs A J Swan

Heard at London South (by video)

on: 18 September 2024

Before: Employment Judge Corrigan

Appearances:

Claimant: In person

First respondent: No attendance

Second respondent: in person

Third respondent: in person

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21

1. Notice of the claimant's claim was sent to the name and address provided for the respondents in 26 April 2023 and no response was received from the first respondent by 25 May 2023. A rule 21 judgment is therefore made based on the further information provided by the claimant today.
2. The first respondent was the claimant's employer.
3. The first respondent has made unauthorized deductions from the claimant's wages and must pay the claimant £585 gross, subject to appropriate deductions for tax and National Insurance, for his unpaid commission for the period 19-27 February 2024. This is calculated on the basis of 6 days work and an average of 6.5 sales per day at £15 commission per sale.
4. The claimant was wrongfully dismissed by the first respondent and is entitled to 2 weeks' notice pay of £1,104.58 (£552.29 net per week based on an average of his last 3 months' earnings including commission) to be paid by the first respondent to the claimant. The claimant limited his claim to statutory notice as he will pursue the remaining loss of earnings under the age discrimination claim.
5. The claimant was entitled to 4.5 days of accrued holiday pay of £606.42 (4.5 x a day's pay of £134.76, based on his last 3 months earnings including commission) to be paid by the first respondent to the claimant, subject to appropriate deductions for tax and National Insurance.

6. The first respondent unfairly dismissed the claimant. The claimant is awarded compensation of £1071 to be paid by the first respondent to the claimant. This award consists of a basic award of £571 and loss of statutory rights of £500. Recoupment does not apply to this award.
7. The claim of age discrimination is continuing against all three respondents and the claimant chose to pursue his loss of earnings as part of that claim. An award has therefore not been made for loss of earnings as part of the unfair dismissal claim.
8. The claimant did not receive particulars of employment that were compliant with s1 Employment Rights Act 1996, nor an update when his employer changed, and he is awarded an increase to the above award of £1286 (2 weeks' gross pay capped at £643 per week as the claim commenced after the increase of the cap on 6 April 2023).
9. I did not increase the award by 4 weeks as the claimant requested as the respondent had provided partial terms when he began and did give written updates of the names of his employer on the pay statements, and the claimant did not point to any particular way in which the lack of contract had disadvantaged him in particular.
10. The total to be paid to the claimant by the first respondent is £4,653, subject to the appropriate deductions for tax and national insurance on the unpaid commission and holiday pay as set out above.

Employment Judge Corrigan

18 September 2024

JUDGMENT SENT TO THE PARTIES ON
30th September 2024

FOR THE TRIBUNAL OFFICE

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