



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Mr Kevin Fentham

Respondent

AND The Cornish Beer Company Limited

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD AT Bodmin

ON

1 December 2017

EMPLOYMENT JUDGE N J Roper

Representation

For the Claimant: In person

For the Respondent: No Appearance Entered

JUDGMENT ON REMEDY

The judgment of the tribunal is that:

1. The respondent is ordered to pay the claimant damages for breach of contract in the net sum of £4,798.32; and
2. The claimant is entitled to a statutory redundancy payment of £9,535.50; and
3. The respondent is ordered to pay the claimant compensation for unfair dismissal in the sum of £20,329.26; and
4. The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 apply in this case. The Prescribed Period is 18 July 2017 to 1 December 2017 and the Prescribed amount is £7,043.50. The benefit office is Gloucester Benefit Centre, Post Handling Site B, Wolverhampton WV99 1LN ref WL980319C.

REASONS

1. In this case the claimant Mr Kevin Fentham already has the benefit of a Judgment under Rule 21 dated 11 September 2017 and this judgment deals with the appropriate remedy for the claimant's successful claims for entitlement to a statutory redundancy payment; unfair dismissal; and for breach of contract in respect of his notice pay.

2. I have heard from the claimant. No appearance was entered by the respondent and no one attended the hearing on its behalf. I found the following facts proven on the balance of probabilities.
3. The claimant was born on 4 December 1960. He was employed by the respondent from 15 March 2004 until his dismissal without notice on 25 April 2017. He earned £495.15 gross per week with the respondent, which was £399.86 net per week. He claimed Job Seeker's Allowance and later obtained alternative employment from mid-November 2017 at a lower rate of pay, namely £276.92 net per week. His ongoing differential loss is therefore at £122.94 net per week. I accepted the claimant's evidence that he expects it to take at least two years before he is in a position to obtain better paid employment and extinguish his ongoing differential loss.
4. The claimant is entitled to a statutory redundancy payment of £9,535.50 (19.5 x £489.00 which is the appropriate statutory cap for gross weekly pay).
5. I award the net sum of £4,798.32 as damages for breach of contract being the loss of 12 weeks' statutory notice at the net rate of £399.86 per week.
6. I now turn to the appropriate remedy for unfair dismissal. The claimant does not seek re-engagement or reinstatement and seeks compensation. There is no basic award because of the award of the statutory redundancy payment. With regard to the compensatory award I first award the sum of £500 for loss of statutory rights. The claimant seeks net loss to date from the expiry of his 12 week notice period on 18 July 2017, which is a period of 19 weeks at £399.86 (£7,957.34) against which he gives credit for two weeks pay received at his new job totalling £553.84. This is £7,043.50 net loss from 18 July 2017 to the date of this hearing 1 December 2017, which are the Prescribed Amount and the Prescribed Period respectively for the purposes of the Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 which apply in this case.
7. The claimant's ongoing net loss is at £122.94 per week and future loss for 104 weeks is £12,785.76.
8. Total compensation for unfair dismissal is therefore £20,329.26 (£500 plus £7,043.50 plus £12,785.76) which I consider to be just and equitable.

Employment Judge N J Roper
Dated 1 December 2017

Judgment sent to Parties on
