



EMPLOYMENT TRIBUNALS

Claimant: Mr S Crosswell

Respondent: Hillcrest (UK) Limited (in Creditors' Voluntary Liquidation) (1)
Janet Lee (2)

Heard at: Watford (in private; by telephone)

On: 21 September 2021

Before: Employment Judge Maxwell

Appearances

For the claimant: Mr A Arul, Solicitor

For the respondents: No attendance

RESERVED JUDGMENT

1. Pursuant to rule 21, the Claimant's claims succeed as against the first Respondent, with respect to:
 - 1.1 automatic unfair dismissal for having made a protected disclosure;
 - 1.2 protected disclosure detriment;
 - 1.3 breach of contract.
2. Pursuant to rule 21, the Claimant's claims succeed as against the Second Respondent, with respect to:
 - 2.1 protected disclosure detriment.

REASONS

3. Rule 21(1) is satisfied in the present case:
 - 3.1 with respect to the First Respondent, on the ground that although a response was entered:
 - 3.1.1 it appears that step may have been taken by a person without standing at that time to do so;
 - 3.1.2 in any event, the liquidator has since confirmed that it does not intend to make any representations and the claim is not, therefore, contested;

- 3.2 as against the Second Respondent, on the ground that no response has been presented at all.
4. The available material and in particular the Claimant's grounds of claim provide that:
 - 4.1 he was employed by the Respondent as a Salesman between 20 March 1998 and 23 December 2019;
 - 4.2 following an accident during a business trip in Costa Rica, the Second Respondent paid his medical bills and then demanded reimbursement;
 - 4.3 the Claimant made protected disclosures about the lack of insurance for medical expenses, the unlawfulness of the demands now being made of him and subsequent matters;
 - 4.4 the Claimant was subject to detriments by reason of having made protected disclosures, including with respect to the non-payment of pension contributions and bonus;
 - 4.5 the Claimant was dismissed for making protected disclosures, which was also a detriment he was subjected to by the Second Respondent;
 - 4.6 the Claimant was summarily dismissed.
5. The Claimant was not required to attend a disciplinary hearing within section 10(1)(a) of the Employment Relations Act 1999 and the right to be accompanied did not, therefore, apply.
6. The right to complain about written reasons not being provided under section 93 of the Employment Rights Act 1996, only applies where he has requested the same within section 92, which the Claimant does not say he did.
7. The Claimant having succeeded in his primary case that the reason or principal reason for dismissal was having made a protected disclosure, his claim in the alternative to have been dismissed because of a redundancy situation does not succeed.
8. The Claimant's unfair dismissal claim can only succeed against his employer (i.e. the First Respondent) and the same is true for breach of contract. The complaint about dismissal as a detriment can succeed against the Second Respondent.
9. In light of the information set out above and pursuant to rule 21(2), judgment will be entered for the Claimant:
 - 9.1 with respect to his claims against the First Respondent of:
 - 9.1.1 automatic unfair dismissal for having made a protected disclosure;
 - 9.1.2 protected disclosure detriment;

9.1.3 breach of contract.

9.2 With respect to his claims against the Second Respondent:

9.2.1 protected disclosure detriment, with respect to dismissal.

10. Remedy will be determined at a hearing on 14 December 2021 before a judge sitting alone.

Date: 21 September 2021

Sent to the parties on:

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For the Tribunal Office:

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