



EMPLOYMENT TRIBUNALS

Claimant: Mr J McDonnell (deceased)

Respondent: MWBC Ltd

Heard at: Midlands West Employment Tribunal via video hearing

On: 16 February 2023

Before: Employment Judge Fitzgerald

Representation

The Claimant's widow (who is continuing these proceedings on behalf of the Claimant) was represented by Mr Paterson.

The Respondent did not attend.

JUDGMENT

1. This Judgment is issued pursuant to: (i) Rule 21 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 in circumstances where the Respondent has not presented a response to the claim, and (ii) the Remedy Hearing on 16 February 2023.
2. The Claimant's claim for wrongful dismissal (failure to give notice) succeeds and the Claimant is awarded £2,803.80 net representing 6 weeks' wages plus employer pension contributions. This sum is uplifted by 25%, namely to £3,504.75, due to the Respondent's failure to comply with the ACAS Code of Practice on Disciplinary and Grievance Procedures.
3. The Claimant's claim for unfair dismissal succeeds and the Claimant is awarded a basic award of £4,896. The Claimant's compensatory award is limited to £500 for loss of statutory rights, as the remainder of his compensatory award overlaps with the compensation already awarded for wrongful dismissal. This sum is uplifted by 25%, namely to £625, to represent the Respondent's failure to comply with the ACAS Code of Practice on Disciplinary and Grievance Procedures.

4. The Claimant's claim for 5 days' holiday pay succeeds and he is awarded a sum of £439 net.
5. The Claimant's claim for unlawful deduction of wages (week in hand) succeeds and he is awarded a sum of £439 net.
6. At the time these proceedings were instituted the Respondent was in breach of its duty to provide the Claimant with a contract of employment. He is therefore awarded a sum of 4 weeks' gross pay which equals £2,264.
7. The total sum payable by the Respondent to the Claimant is £12,167.75

Employment Judge Fitzgerald
16 February 2023

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.