



EMPLOYMENT TRIBUNALS

Claimant: Mr M Barandino

Respondent: Bakaruda Limited

JUDGMENT

UPON the Respondent failing to file a response; and

UPON the judge deciding, on the basis of the information in the ET1 and obtained from the Claimant that he can make a proper determination of the claims pursuant to Rule 21 of Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

1. The Claimant's claim for a statutory redundancy payment is dismissed by consent.
2. The Claimant's claim for salary due but unpaid for June and July 2023 and brought under Sections 13 and 23 of the Employment Rights Act 1996 is well founded and it is declared that the Respondent unlawfully deducted the sum of £4,553.33 in each month. A total of **£ 9,106.66**
3. The Claimant's claim for notice pay brought under the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994 succeeds to the extent that the Claimant is entitled to damages reflecting any loss incurred between 31 July 2024 and 1 September 2023 the earliest that his contract could have been lawfully terminated. The Claimant held the title 'Commercial Director' and was entitled to 12 weeks' notice of any dismissal.
4. The Claimant has losses equating to the salary that he would have earned in August 2023. Any sums paid pursuant to this judgment will be subject to deductions of tax and national insurance and so the sum that reflects the Claimant's loss is a sum equal to his gross monthly pay which is **£4,553.33**.
5. The Claimant's claim for additional payments agreed orally with the Respondent in respect of work done on 5 August 2023 and 12 August 2023 brought under Sections 13 and 23 of the Employment Rights Act 1996 is well founded. The Respondent unlawfully deducted the sum of **£400** from the Claimant's wages due on 31 August 2023.

6. The Claimant's claim for holiday pay is brought under the contractual provisions in his contract of employment which provide both for 25 days holiday plus bank holidays per annum and the right to a payment in lieu of accrued but untaken holiday. The Claimant agrees that he took 5 days annual leave and that the holiday year started on 1 January 2023.
7. The Claimant was dismissed on 31 July 2023 (212 days into the holiday year). At that date he had accrued $212/365 \times 25$ days holiday = 14.5 days holiday. The number of days accrued but untaken is $14.5 - 5 = 9.5$ working days or 1.9 weeks.
8. The Claimant's annual salary was £55,000 and his weekly pay £1,057.69.
9. The Claimant is entitled to the sum of $£ 1,057.69 \times 1.9 = \mathbf{£2,009.61}$ as that sum represents sums due under the Claimant's contract it is subject to the PAYE scheme and is accordingly calculated as a gross sum.

THE RESPONDENT IS ORDERED TO PAY THE CLAIMANT

- (1) The sum of **£ 9,106.66** under paragraph 2 above
- (2) The sum of **£4,553.33** under paragraph 4 above
- (3) The Sum of **£400.00** under paragraph 5 above
- (4) The sum of **£2,009.61** under paragraph 9 above

For the avoidance of doubt the total sum due to the Claimant is **£16,069.60** which may be made by payment of that sum less any deductions of tax and national insurance required by law.

Employment Judge Crosfill
Dated: 9 April 2024