



EMPLOYMENT TRIBUNALS

Claimant: Mr C Brown

Respondent: EMS Internet Limited (in Voluntary Liquidation)

HELD AT: Liverpool **ON:** 12 December 2017

BEFORE: Employment Judge Robinson
(sitting alone)

REPRESENTATION:

Claimant: In person

Respondent: Not in attendance

JUDGMENT

The judgment of the Tribunal is that:

1. The claimant's claim for unfair dismissal succeeds.
2. The claim for damages for breach of contract and unlawful deduction of wages are dismissed.
3. The sum due to the claimant is £57,383.39 which is calculated as per the reasons set out below.

REASONS

1. The claimant attended the hearing but there was no attendance from the respondent company which is in voluntary liquidation.

2. The claimant earned a basic wage with the respondent of £24,000 per annum but I am satisfied that his taxable income for the last two years far exceeds that sum. I have calculated his compensation from his P60 for the year 2015/2016 which the claimant says is the sort of wages he earned up to the date he was dismissed, including basic wage, commission and bonus. The taxable income for that year was £67,403.57. His income after tax and deductions was £46,582.51.

3. I decide that the sum due to the claimant is £46,582.51. That is a year's compensation from the time he was dismissed. I am prepared to order the respondent to pay that sum grossed up to £57,637.51.
4. I have deducted £15,000 for the claimant's potential earnings over the next year in his new venture with his friend and partner which they set up after the claimant's dismissal. That leaves a net figure of £42,637.51 due to the claimant
5. To that sum I have added loss of statutory protection compensation of two weeks at £922 which leaves the claimant's compensatory award at £43,559.51. I have uplifted that amount by 25% for breach of the ACAS code when the respondent dismissed the claimant which is £10,889.88, and I have added that sum to the compensatory figure, giving a final figure of £54,449.39. That sum does not exceed his statutory cap of £67,403.57
6. Finally I have added the basic award which is £2,934.
7. Therefore the total sum due to the claimant is £57,383.39 and I order the respondent to pay that sum forthwith.
8. The recoupment provisions do not apply.

Employment Judge Robinson
12-12-17

JUDGMENT SENT TO THE PARTIES ON
18 December 2017

FOR THE TRIBUNAL OFFICE

Note

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.



NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number: 2404085/2017

Name of case: Mr C Brown v EMS Internet Limited (In Voluntary Liquidation)

The Employment Tribunals (Interest) Order 1990 provides that sums of money payable as a result of a judgment of an Employment Tribunal (excluding sums representing costs or expenses), shall carry interest where the full amount is not paid within 14 days after the day that the document containing the tribunal's written judgment is recorded as having been sent to parties. That day is known as "*the relevant decision day*". The date from which interest starts to accrue is called "*the calculation day*" and is the day immediately following the relevant decision day.

The rate of interest payable is that specified in section 17 of the Judgments Act 1838 on the relevant decision day. This is known as "the stipulated rate of interest" and the rate applicable in your case is set out below.

The following information in respect of this case is provided by the Secretary of the Tribunals in accordance with the requirements of Article 12 of the Order:-

"the relevant decision day" is: 18 December 2017

"the calculation day" is: 19 December 2017

"the stipulated rate of interest" is: 8%

For the Employment Tribunal Office