



EMPLOYMENT TRIBUNALS

Claimant: Mr G Fee

Respondent: Euro Garages Ltd

Heard at: Manchester

On: 17 & 18 January 2023

Before: Employment Judge Phil Allen (sitting alone)

REPRESENTATION:

Claimant: Mr D Bunting, counsel

Respondent: Mr P Keith, counsel

JUDGMENT

The judgment of the Tribunal is that:

1. The claimant was unfairly dismissed. His claim for unfair dismissal succeeds.
2. The claimant did not contribute to his dismissal such that either his basic or compensatory award should be reduced under either section 122(2) or 123(6) of the Employment Rights Act 1996.
3. Applying the principles in *Polkey*, the claimant's compensatory award should be reduced by 40% to reflect the chance that he would have been dismissed in any event.
4. The respondent unreasonably failed to comply with the ACAS code of practice on disciplinary and grievance procedures and, as a result, the award should be uplifted by 10% under section 207A(2) of the Trade Union and Labour Relations (Consolidation) Act 1992.
5. The respondent breached the claimant's contract of employment by not giving the claimant notice or paying him in lieu of notice and the claimant is awarded damages equivalent to three months notice as a result.
6. The respondent did not make an unauthorised deduction from the claimant's wages regarding annual leave.
7. The claim for failure to provide written reasons for dismissal is dismissed on withdrawal.

Employment Judge Phil Allen
18 January 2023

JUDGMENT SENT TO THE PARTIES ON
19 January 2023

FOR THE TRIBUNAL OFFICE

Notes

Reasons for this 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.

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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.