



EMPLOYMENT TRIBUNALS

Claimant: Mr A Humphreys

Respondent: Anderbury Ltd

Heard at: Liverpool **On:** 30 November and 1 December 2023

Before: Employment Judge Horne

Representatives

For the claimant: Miss J Hubbard, non-legal representative

For the respondent: Mr S Susak, counsel

JUDGMENT

1. The claimant was unfairly dismissed.
2. It is not just and equitable to reduce any basic or compensatory award on the ground of the claimant's alleged conduct.
3. Any compensatory award will be reduced to reflect the tribunal's finding that, had the respondent acted fairly:
 - a. The claimant's employment would inevitably have continued until 27 May 2023;
 - b. There is a 25% chance that the claimant's employment would have continued indefinitely beyond 27 May 2023; and
 - c. There is a corresponding 75% chance that the claimant would have been fairly dismissed on 27 May 2023.
4. Any compensatory award will be increased by 25% under section 207A of the Trade Union and Labour Relations (Consolidation) Act 1992 because of the respondent's unreasonable failure to follow ACAS Code of Practice 1: Disciplinary and Grievance Procedures.
5. The respondent breached the claimant's contract of employment by failing to give him 3 calendar months' notice of termination.
6. Any award of damages for breach of contract will be calculated to restore the claimant to the position he would have been in had he been given 3 calendar months' notice of termination. Credit will accordingly be given for the payment of 12 weeks' pay already made by the respondent to the claimant.

7. The respondent breached the claimant's contract of employment by failing to pay him for one day's accrued annual leave on termination of employment.
8. There was no oral agreement between the claimant and the respondent entitling the claimant to be paid for additional days worked either before or after the withdrawal of the claimant's notice in June 2022.
9. The respondent did not breach the claimant's contract of employment by failing to pay him for those additional days.
10. The respondent did not refuse to permit the claimant to exercise his right to a daily rest break.
11. The respondent did not refuse to permit the claimant to exercise his right to a weekly rest break.
12. The tribunal does not make any award to the claimant under section 38 of the Employment Act 2002. This is because:
 - a. The respondent complied with section 1 of the Employment Rights Act 1996; and
 - b. In any case there were exceptional circumstances making it unjust and inequitable for the tribunal to make an award.

Employment Judge Horne
4 December 2023

SENT TO THE PARTIES ON
5 December 2023

FOR THE TRIBUNAL OFFICE

Note:

Reasons for the judgment were given orally at the hearing. The claimant has requested written reasons. These will be provided separately. Priority will be given to providing the reasons for the decisions that were unfavourable to the claimant, as it is the claimant who requested the reasons. Even those reasons are highly unlikely to be provided by the date of the remedy hearing. When the reasons are provided, they will be entered onto the tribunal's online register, which is visible to internet searches.