



THE EMPLOYMENT TRIBUNAL

SITTING AT: LONDON SOUTH

BEFORE: EMPLOYMENT JUDGE MORTON

BETWEEN:

Mr A Soosaipillai

Claimant

AND

The Restaurant Group PLC

Respondent

ON: 6 January 2020

Appearances:

For the Claimant: In person

For the Respondent: No appearance

JUDGMENT

1. The Claimant was unfairly dismissed by the Respondent.
2. The Claimant's is entitled to £6263.06 by way of compensation for unfair dismissal under sections 122 and 123 Employment Rights Act 1996 ("ERA").

Reasons

1. The Claimant submitted a claim for unfair dismissal on 12 August 2019 having been summarily dismissed on 7 May 2019 and having commenced ACAS early conciliation on 13 June 2019 and received the EC certificate on 9 July. The claim was therefore presented in time. The claim was served on the

- Respondent and no response was received. There was no appearance by the Respondent at the hearing although notice of hearing was sent to both parties on 23 September 2019.
2. The burden was on the Respondent to show that it had a potentially fair reason to dismiss the Claimant but having failed to participate in the proceedings it had failed to prove that that was the case. Nevertheless I considered the evidence presented by the Claimant and satisfied myself that on the facts as he presented them his dismissal had been pre-determined and unfair. I also satisfied myself that he had not done the misconduct of which he was accused and it would not therefore have been appropriate to reduce any compensatory award to reflect contributory conduct on his part.
 3. I asked the Claimant what he sought by way of remedy. He initially said that he wished to be reinstated, but I said that I would not be able to award reinstatement without holding a further hearing at which the Respondent would be permitted to present evidence about the practicability of reinstatement. The Claimant then decided to opt for compensation.
 4. I discussed the amount the Claimant was seeking.
 - a. His net weekly pay was £547.19
 - b. Following his summary dismissal he was out of work for 4.29 weeks (7.5.19 – 6.6.19) giving a total loss for that period of £2347.45
 - c. He was immediately after that employed for 11.57 weeks on a lower net salary of £344.89 per week (7.6.19 – 26.8.19) giving a total loss for that period of £2340.61.
 - d. A total of £4688 net loss of earnings will therefore be awarded.
 5. The Claimant is also entitled to a basic award of three weeks' pay under s 122 ERA at the statutory weekly limit of £525, totalling £1575.
 6. The overall total award is therefore £6263.

Employment Judge Morton
Date: 6 January 2020