



EMPLOYMENT TRIBUNALS

Claimant: J Dos Santos
G Da Costa

Respondent: K Best Partner Ltd (1)
Christine Choi Lin Soong (2)
Gao Tou (3)

Heard at: VIA CVP **On:** 15 January 2021

Before: Employment Judge Noons

Representation

Claimant: Mr B Large of Counsel

Respondent: None

JUDGMENT

The Judgment of the Tribunal is that:

1. Both Claimants were employed by the second respondent Christine Choi Lin Soong.
2. Both Claimants were unfairly constructively dismissed by the second respondent.
3. Both Claimants' claims of breach of contract are well founded. The second respondent breached both claimants' contracts of employment by failing to pay them the national minimum wage and holiday pay. Both claimants were employed on time work and their pay reference period was a week.
4. Both Claimants' claims that the second respondent refused to permit them to exercise their right under Regulation 13 of the Working Time Regulations 1998 are well founded and I make a declaration to that effect.
5. Both Claimants' claims that the second respondent failed to allow both

Claimants to access records in accordance Section 10 of the National Minimum Wage Act 1998 are well founded and I make a declaration to that effect.

6. Both Claimants' claims that the second respondent failed to provide them with a statement of terms and conditions in accordance with Section 1 of the Employment Rights Act 1996 are well founded and I make a declaration to that effect.
7. The Claimants' claims in relation to alleged unlawful deduction from wages under S13 of the Employment Rights Act were not pursued.
8. The Claimants' claims relating to a failure to provide an itemised pay statement in accordance with S 8 of the Employment Rights Act 1996 were not pursued.
9. The Claimants' claims that all 3 respondents should be jointly and severally liable in accordance with *Antuzis v DL Houghton* [2019] EWHC 843 were not pursued.
10. The Claimants' claims for wrongful dismissal are not pursued.
11. The Tribunal will decide the remedy at a further hearing on **26 February 2021** which will take place via CVP. The Claimants are required to provide updated schedules of loss and a remedy bundle, taking into account the accommodation offset provisions in relation to their national minimum wage entitlements. Electronic copies of the updated schedules of loss and remedy bundle should be sent to the second respondent and the Tribunal no later than **12 February 2021**.

Employment Judge Noons
Date: 20/01/2021

Notes

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.

Public access to employment tribunal decisions

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.