



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Mr P W Redman

Respondent

AND Mr Paul Daniels trading as L J Baulch

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD AT Exeter

ON

20 February 2017

EMPLOYMENT JUDGE N J Roper

Representation

For the Claimant: In person

For the Respondent: In person

JUDGMENT

The judgment of the tribunal is that the claimant is entitled to a statutory redundancy payment in the sum of £5,175.00.

REASONS

1. This is the judgement following a preliminary hearing to determine the exact amount of the claimant's entitlement to a statutory redundancy payment. It follows a case management order made on 30 August 2016 ("the Order"), and in particular paragraph 5 of that Order.
2. I have heard from the claimant and I have heard from the respondent.
3. There was a degree of conflict on the evidence. I have heard the parties give their evidence and observed their demeanour. I found the following facts proven on the balance of probabilities after considering the whole of the evidence, both oral and documentary, and after listening to the factual and legal submissions made by and on behalf of the respective parties.
4. The first question which fell to be determined was that in numbered paragraph 5.2 of the Order, namely whether or not there had been a break in the claimant's period of continuous employment as alleged by the respondent between 9 March 2007 and 26 March 2007. Subject to determining that point, the parties had previously agreed that in that event the correct calculation for the claimant's entitlement to a statutory redundancy payment was in the sum of £5,175.00, being 11.5 weeks at £450.00.
5. The respondent adduced an original handwritten ledger which showed the weekly sums which he had paid to his employees during the relevant period. These corroborated the

respondent's assertion that the claimant's attendance had been unreliable and sporadic in the period immediately prior to March 2007. The ledger also has an entry that the claimant was dismissed and not paid from the week commencing 9 March 2007, and was not thereafter an employee of the respondent until the last week of March 2007. The ledger then notes that he then returned as a full-time employee. In addition the respondent adduced a copy of a dismissal letter dated 5 March 2007. This letter confirms the claimant's dismissal following verbal and written warnings about unreliability and missing work.

6. The claimant denies that he was ever dismissed and denies having seen this dismissal letter. He also relies on a letter from the Inland Revenue dated 13 October 2016 confirming his gross salary for 2006/2007 was £15,675.00 which is inconsistent with the respondent's assertions that he only worked part-time and/or sporadically during that year. He alleges that the pay ledger has been fabricated by the respondent.
7. I have seen the original of the ledger which is handwritten in original ink. It is consistent with the respondent's version of events. The letter of dismissal is also consistent with the respondent's allegations that the claimant was unreliable in the period immediately preceding March 2007, and was not on the respondent's books as an employee until he subsequently rejoined some three weeks later. The respondent's contemporaneous documentary evidence corroborates the respondent's version of events. The letter from the Inland Revenue relied upon by the claimant is not determinative one way or the other as to whether the claimant was or was not an employee of the respondent during March 2007.
8. For these reasons on the balance of probabilities I prefer the respondent's version of events and I find that the claimant was dismissed by letter dated 5 March 2007 and did not rejoin the respondent's employment until 26 March 2007.
9. Accordingly the claimant's period of continuous employment was broken from 5 March 2007 and commenced again only with effect from 26 March 2007. On that basis the claimant is entitled to a statutory redundancy payment in the sum of £5175.00.

Employment Judge N J Roper
Dated 20 February 2017

Judgment sent to Parties on

3 March 2017