



EMPLOYMENT TRIBUNALS

Claimant

Mr M Chishty

Respondent

-v-

**(1) AJ Law Limited
(2) The Secretary of State for
Business, Energy & Industrial
Strategy**

FINAL MERITS HEARING

Heard at: Centre City Tower, Birmingham

On: 4 April 2017

Before: Employment Judge Perry

(sitting alone)

Appearances

For the Claimant:

in person

For the First Respondent:

none

For the Second Respondent:

Written representations only

JUDGMENT

1. The claimant was dismissed by reason of redundancy on 2 December 2016 and is entitled to a redundancy payment in the sum of £1,437.00 (being 3 weeks' gross pay).
2. The claimant was dismissed in breach of contract on 2 December 2016. The first respondent is ordered to pay 1,764.81 (net) as damages to the claimant.
3. The first respondent has made an unlawful deduction from the claimant's wages pursuant to Part II of the Employment Rights Act 1996. The first respondent is ordered to pay £5,069.32 (gross) to the claimant being made up of £307.69 in respect of 2 days' unpaid pay and £4,761.63 in relation to a bonus payment.
4. The claimant's claim for holiday pay is dismissed on withdrawal.
5. The claimant accepts the first respondent is not insolvent. He has requested for the avoidance of doubt that I record that he did not make claims within his claim form against the Secretary of State pursuant to s.163, s.170 or s.188 Employment Rights Act 1996 as amended. The claimant did not seek to bring a claim against the Secretary of State; the Secretary of State was asked if she wished to intervene and sought to do so because of the potential liability against the National Insurance Fund. I record that none of the aforementioned claims pursuant to s.163, s.170 or s.188 have thus been pursued against the Secretary of State as yet.
6. The claimant has paid a presentation fee of £160.00 and a hearing fee of £230.00. The claimant sought a fees award. The Secretary of State was served with the pleadings and thus joined as a second respondent. It lodged a response but did not attend today. It sought to be notified of any additional claims including costs or fees before they were made. In my judgment it is not in the interests of justice for me to postpone such a decision to a later date due to the costs, delay and additional hearing time both for the parties and tribunal that this will cause. The second respondent was aware of the potential for a fees award and thus should have made any submissions that were



relevant when lodging its response. It did not do so. Given the claimant expressly requested that I make the declaration in (5) above there can be no liability that ensues to against the Secretary of State and thus no prejudice by my making an award of fees today. If the second respondent objects it can seek a reconsideration of my decision.

7. The claim has been decided in the claimant's favour. Pursuant to Rules 75 (1)(b) and 76(4) the first respondent is ordered to pay to the claimant the sum of £390.00.

Mr M Chishty v (1) AJ Law Limited
(2) The Secretary of State for Business, Energy & Industrial
Strategy
Final Merits Hearing
On 4 April 2017 [2 / 2]
Case Number: 1300486/2017

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Employment Judge Perry
Dated: 4 April 2017

sent to the parties on
05/04/2017

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Note. 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.