



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr RM Gardner

v

**KCR Service Ltd 1st Respondent
Mr Don Mather 2nd Respondent**

Heard at: Watford

On: 13 December 2017

Before: Employment Judge Bedeau

Appearances

For the Claimant: In person

For the Respondent: Did not attend nor represented

JUDGMENT

1. It is declared that there had been an unauthorised deduction from the claimant's wages and the respondent is ordered to pay him the sum of £2,181.10 gross for the non-payment of his salary from 1 June to 4 July 2017.
2. The respondent is ordered to pay the claimant seven days accrued unpaid holiday in the sum of £516.95 nett.
3. The claimant is entitled to a redundancy payment in the sum of £876.92 gross.
4. The respondent is ordered to pay the claimant the sum of £1,600.00 nett in respect of his notice pay.
5. For the avoidance of doubt the respondent is ordered to pay the claimant the total sum of £5,174.97.
6. The second respondent is dismissed from these proceedings as he did not employ the claimant.

REASONS

1. By a claim form presented to the tribunal on 4 September 2017, the claimant made claims against the respondent of: unauthorised deductions from wages; unpaid notice pay; accrued unpaid holiday; and redundancy pay.
2. No response was presented by the respondent in defence of the claims. In an email sent to the tribunal dated 12 December 2017, Mr Chris Browne, stated that the respondent had ceased trading and is in the process of being wound up. Neither the claimant nor the tribunal has been given details of Receivers or Liquidators of the company.

The evidence

3. I heard evidence from the claimant who produced his contract of employment dated 2 June 2016; copies of his bank statements, and an email from Mr Browne dated 4 July 2017.

Findings of fact

4. The mobile phone provider, O2, entered into a contract with a company called VSG to install security and other services in homes to create what is described as a Smart Home, enabling the home owner to operate a range of services in the home remotely by use of their mobile phone. VSG outsourced the work to the respondent.
5. The owner of the respondent company is believed to be Mr Chris Browne who engaged the claimant and five other people as home installers to install the remotely operated systems.
6. The claimant commenced employment with the respondent on 4 August 2014. He worked full-time and regularly worked overtime. His revised contract of employment dated 2 June 2016, stipulated that the respondent was required to give him one month's notice after serving one complete year.
7. The holiday year ran from 1 January to 31 December and the claimant was entitled, in addition to his bank and public holidays, 21 days' holiday in each year.
8. His initial salary was £20,000.00 but this was increased with a final increase in January 2017 taking his annual pay to £22,800.00, the equivalent of £1,900.00 gross per month.
9. I was satisfied that he and his colleagues did not receive itemised pay statements from the respondent.
10. On 4 July 2017, while the claimant was on leave, he was sent an email by Mr Browne stating the following:

“All,

It is deep sadness that I write this email but as from 14.30 hours today, 4 July 2017, KCR Service which operates the O2 project has ceased trading with the loss of all jobs. I know that you will all be contacted by VSG very shortly to have a telephone conference to discuss this but the Arvato and O2 equipment that you have in your possession is to be returned on Thursday in Slough where there will be a meeting...

Reference the equipment in your possession that belongs to KCR Service, this must be left in the van and the van returned to the office and the keys left on reception with the security guard. I would suggest that you get a signature for the receipt of the van.

You will be contacted next week to arrange for any monies owed to be paid at the earliest opportunity which will be over the next two to three weeks.

I can only share your anger and sadness over this but I will do my utmost to ensure that any monies owed are paid in full ASAP.

As you can imagine I am very busy at the moment with all this going on so I apologise if I can't take your calls but there will be a conference call very shortly.

May I thank you for your employment and again I apologise for this situation."

11. The claimant and his colleagues did engage in a conference call with VSG and it was confirmed that KCR no longer had the contract and that their employments would terminate. Thereafter the claimant sought payment from Mr Browne but all attempts to pay any outstanding monies failed. He had not been paid his salary for the period covering 1 June to 1 July 2017 which should have been paid on 4 July 2017 as all monthly salaries were paid on the 4th of the month.
12. The claimant confirmed that the company had ceased trading on its site in Alperton House, Wembley.
13. From Companies House, the information obtained states that the respondent is active but there is a proposal to strike off. The reason for the strike off is not given.
14. The claimant's average gross weekly wage was £438.46. His nett weekly was £369.23. One day's nett pay was £73.85. A day's gross pay was £93.70.
15. He was born on 10 August 1990 and was 26 years at the date of termination on 4 July 2017. By that time, he had not completed three years' continuous service with the respondent, only two years.
16. From 1 January to 4 July 2017, he had taken, in addition to public and bank holidays, three days' annual leave and was entitled to seven days accrued unpaid leave.

Conclusion

Unauthorised deduction from wages

17. From 1 June to 1 July 2017 the claimant was entitled to £1,900.00 gross pay.
18. From 2-4 July, he was entitled to three days' pay at £93.70 a day, £281.10.
19. It is declared that the respondent had made unauthorised deductions from the claimant's wages in the sum of £2,181.10.

Redundancy pay

20. The claimant was 26 years of age at the date of his dismissal on 4 July 2017 and is entitled to two weeks' redundancy pay. This is 2 x £438.46, £876.92.

Unpaid holiday

21. The claimant is entitled to seven days accrued unpaid holiday at £73.85 nett per day which is £516.95 nett.

Notice pay

22. The claimant is entitled to one month's contractual notice pay in the sum of £1,600.00 nett.

Employment Judge Bedeau

Date: 10.01.18.....

Sent to the parties on:

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For the Tribunal Office