



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr N Holmes

v

**1. Thomas Allen
2. Lee Allen**

Heard at: Cambridge

On: 2 February 2018

Before: Employment Judge Ord

Appearances

For the Claimant: Mr Powlesland, Counsel

For the Respondent: not in attendance and not represented

JUDGMENT ON REMEDY

The claimant has judgment for the following sums;

1. A statutory redundancy payment of £2,200.50.
2. £200.00 for unlawful deductions for wages.
3. £303.88 for accrued holiday pay outstanding at the time of dismissal.
4. An award at the upper limit for failure to provide terms and conditions of employment being four weeks' pay £1,956.00.
5. A compensatory award for unfair dismissal of £2,365.20 together with an uplift of 25% thereon for the respondent's unreasonable failure to follow the ACAS Code of Practice (£591.30) making a total of £2,956.50.
6. The total judgment sum is £7,616.88.

REASONS

1. The claimant was employed as a carpenter at premises trading as Rushden Scrap Yard and/or Allen Metals, Station Road, Irthlingborough from February 2014 until 24 May 2017.
2. The claimant took instructions from and understood he was employed by Mr Lee Allen, the name of the second respondent. He received payslips in the name of Mr Thomas Allen, the first respondent. The claimant has not met Mr Thomas Allen, can question whether Mr Thomas Allen is in fact the same person as Mr Lee Allen. For the sake of completeness, proceedings were issued against both Mr Thomas Allen and Mr Lee Allen and the judgment is entered against them both.
3. On 23 May 2017, the claimant was spoken to by the man he knew as Lee Allen and was told that there was no further need for him and that they were "letting him go". There was no warning, consultation, discussion or any other preliminary discussion and no other meeting. The claimant was simply told to collect his tools and leave.
4. There was also a total failure to engage in the requirements of the ACAS Code of Practice.
5. The claimant's weekly rate of pay was £500.00 gross, £403.04 net.
6. The claimant was born on 25 September 1965 and was therefore over the age of 41 years throughout the period of his employment. His employment lasted more than three complete years.
7. The claimant was not in receipt of any terms and conditions of employment. It is appropriate in the circumstances of this case where there has been, on the facts, a wholesale failure to have any regard for any of the employment rights of the claimant, or of any of the responsibilities which attach to an employer to award the maximum of four weeks' pay at the statutory maximum wage of £489.00.
8. The claimant obtained alternative employment on 26 June 2017. He told me that he had no continuing loss of earnings from that date. He was out of work for five weeks making a total loss of earnings for a compensatory award of £2,365.20. A 25% uplift is applied to that sum for the respondent's absolute failure to follow nor (as far as can be ascertained) to have any regard for the need for a fair procedure in this case.
9. The claimant was not paid for 22 and 23 May 2017 and is awarded £200.00 for unlawful deductions from wages.

10. The claimant had accrued untaken holiday pay at the time of his dismissal which amounted to 8.5 days' net pay (£303.88).
11. Accordingly, the claimant is awarded a statutory redundancy payment of £2,200.50, a compensatory award for unfair dismissal of £2,365.20 together with the 25% uplift thereon of £591.30, £200.00 for unlawful deductions from wages, £303.88 for accrued but untaken holiday pay and £1,956.00 for failure to provide written terms and conditions of employment.
12. The total due to the claimant is therefore £7,616.88

Employment Judge Ord

Date: ...23 February 2018.....

Sent to the parties on: 23 February 2018

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For the Tribunal Office