



EMPLOYMENT TRIBUNALS

Claimant: Mr S Wojcik

Respondents: 1 Contrella Contractor Ltd, Secretary of State for BEIS
intervening
2 Muarif Boxes Ltd
3 Wasiulk Ltd

Heard at: Bristol **On:** 6 April 2018

Before: Employment Judge R Harper sitting alone

Representation
Claimant: Ms M Gronzynska-Sousa
Respondents: No attendance by any respondent
Interpreter: Ms. A. Brzezinska

JUDGMENT

1. The first respondent is ordered to pay the sum of £3484.44 to the claimant for unpaid holiday pay.
2. No order is made against the Secretary of State for BEIS.
3. The claim for holiday pay is dismissed against the second and third respondents

REASONS

1. The claimant commenced employment with Contrella Contractor Ltd on 26 October 2015 which came to an end on 1 October 2017. I have been shown a document entitled "Contract For Services" but having looked at it I am satisfied that in fact the claimant was an employee. He was told at the beginning of his employment that he would get holiday pay but this was never paid.

2. I am satisfied that he only worked for Contrella Contractor Ltd. He was not able to delegate the work to another employee and Contrella Contractor Ltd entirely directed the claimant at work. The claimant has produced a number of payslips from Contrella Contractor Ltd with deductions for tax and National Insurance and indeed P45s have been issued. I am satisfied that there is an entitlement to holiday pay. I explained to the claimant that as a result of the deduction from Wages Limitation Regulations 2014 any claim made to a Tribunal after 1 July 2015 for holiday pay is subject to a two year cap.
3. The claim form in this case was filed on 28 December 2017 and therefore the two year period goes back to 29 December 2015. As a result, the claimant has slightly amended his claim and looking at his statement there are four components of the award. The first one is £249.95, the second one is £391.11, the next one is £1,904.70 and the last one is £938.68. Those total £3,484.44. The claimant has never been paid for any holiday.
4. During the hearing it was suggested that the claim could be amended to include two other Companies namely 24/7 Recruitment Services and Accountable Accountancy Ltd. Those names appear on some of the payslips. Although the name at the top of the payslip is Contrella Contractor Ltd I have no idea how those Companies fit in but I anticipate that they are external payroll agencies. In any event, although an application to amend was, in the end, not pursued I deal with it nonetheless. There are strict time limits to comply with. The employment ended in October and it was reasonably practicable to have filed claims against those two Companies within three months and that has not been done. If the amendment application had been pursued I would not have allowed those two Companies to be joined as additional respondents.
5. My finding of fact is that the claimant is entitled to holiday pay to be paid by Contrella Contractor Ltd for the reasons stated by the claimant. There is no liability at present in relation to the Secretary of State as no claim has been received in respect of holiday pay from the claimant under sections 166/182 Employment Rights Act 1996.
6. As far as Muarif Boxes Ltd is concerned this was a Company that was set up on 1 June 2016 and is shown as active on the Companies House website but it has overdue accounts. It has not filed a defence. There is a P45 in the bundle that has been produced by Muarif Boxes Ltd. I cannot understand how that could possibly be the case because they were not the claimant's employer and therefore I do not find any liability attaches to them for any cause of action in this Tribunal. However, I am told that there is a tax dispute between the claimant and that Company which is outside the jurisdiction of this Tribunal which the claimant may chose to pursue elsewhere but that is a matter for him.
7. In relation to the third respondent Wasiulk Ltd, they issued a P45 on 23 October 2017. Again, I cannot understand why they did that because the claimant was not employed by them. That Company has not entered a defence either and although it is shown as active on the Companies House website there is a proposal to strike the Company off the register. However,

because I am not satisfied that there is any employment relationship with that Company I make no order against it.

8. I find that the claimant is entitled to receive the sum of £3,484.44 from Contrella Contractor Ltd.

Employment Judge R Harper

Date 6 April 2018

JUDGMENT & REASONS SENT TO THE PARTIES ON

12 April 2018

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FOR THE TRIBUNAL OFFICE