



EMPLOYMENT TRIBUNALS

Claimant: Mr Stephen A Chapman

Respondent: Radnedge Reclaimed Flooring Ltd

Heard at: Cardiff **On:** 20 November 2018

Before: Regional Employment Judge B J Clarke

Representation:
Claimant: In person
Respondent: Mr Raymond Radnedge (director)

JUDGMENT

Background

1. This case was listed for a preliminary hearing by telephone on 20 November 2018, in order to bring order and clarity to proceedings that appeared to have drifted for many months. The ET1 claim form had been presented to the Tribunal on 22 September 2017. There had been months of correspondence between the parties about whether the respondent could afford to pay the claimant and whether the case could be listed for a full hearing to determine the amounts owing. After discussion with the parties at today's preliminary hearing, it was clarified that the claimant claimed the sum of £3,828.04. He indicated that this was made up of statutory notice pay of £1,440, holiday pay of £188.04 and a statutory redundancy payment of £2,200. (In fact, the breakdown that makes more sense is statutory notice pay of £1,440, holiday pay of £228.04 and a statutory redundancy payment of £2,160.)
2. The respondent had originally indicated in its ET3 that it resisted the claim, but it had not properly explained why. During today's discussion the respondent contended that, based on a slightly reduced length of service (ten years), the claimant was in fact owed the sum of £3,188.04, comprising statutory notice pay of £1,200, holiday pay of £188.04 and a statutory redundancy payment of £1,800 – a difference of £640. Yet, in an email to the

tribunal on 25 May 2018, the respondent's accountant (Ms Rosemary Atkins) had appeared to concede that the claimant was owed the sum of £3,828.04.

3. Mr Radnedge said today that he had a cheque for £1,757 ready for the claimant, which was all the money that the respondent had left at the bank. Thereafter, with no further funds, it would effectively be insolvent and unable to pay the balance unless Mr Radnedge put his "hands in his own pockets" (his words). I note that he offered to post this cheque to the claimant tomorrow at his home address; I cannot order him to do so but this would clearly assist the resolution of the case.
4. As I started to explain to the parties what would be involved in arranging a hearing to ascertain the claimant's entitlement to the difference of £640, Mr Radnedge said that he would simply agree to me issuing a judgment for the full amount claimed by the claimant; he effectively withdrew the respondent's defence for this purpose. The judgment set out in this document is therefore issued with the consent of both parties under Rule 64 of the Tribunal's Rules of Procedure 2013.

Judgment

5. The claimant was dismissed by reason of redundancy on 16 June 2017 after 12 years' service. He is entitled to a statutory redundancy payment of **£2,160**.
6. In breach of contract, the respondent failed to give the claimant notice of the termination of his employment or to make a payment in lieu thereof. The respondent is therefore ordered to pay the claimant damages in the sum of 12 weeks' pay, i.e. **£1,440**.
7. In breach of Regulation 14(2) of the Working Time Regulations 1998, the respondent failed to pay the claimant a sum in lieu of the holiday that he had accrued but not taken by the date on which his employment terminated. It is ordered to pay him the sum of **£228.04** in this regard.

Note: for information

8. The following paragraphs are not part of my judgment and are designed to assist the parties.
9. This Tribunal does not enforce its own judgments. If this judgment is unpaid, the claimant will need to enforce it against the respondent through the County Court (rather than against Mr Radnedge personally). It will be a matter for the claimant to decide whether to take appropriate steps to place the respondent in a creditors' liquidation or seek instead to recover the sums owing from the National Insurance Fund by reason of its apparent insolvency. It would assist

this process if Mr Radnedge could write promptly to the claimant to confirm the respondent's insolvency.

10. A search at Companies House reveals that, although the respondent company is presently active, there is a proposal to strike it from the Register of Companies. If the respondent company is struck off, it will be dissolved and there will be no legal entity against which any judgment can be enforced. In those circumstances, the claimant would need to apply to the Court to have the respondent company restored to the Register.
11. To avoid this happening, the claimant should write to Companies House as soon as possible to confirm his objection to the respondent being struck off the register until any associated enforcement litigation has concluded. The address is:

Companies House
Crown Way
Maindy
Cardiff
CF14 3UZ

Contact Centre line: 0303 1234 500
Email: enquiries@companies-house.gov.uk

Regional Employment Judge B J Clarke
Dated: 20 November 2018

CONSENT JUDGMENT SENT TO THE PARTIES ON

.....24 November 2018.....

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FOR THE SECRETARY OF EMPLOYMENT TRIBUNALS