



EMPLOYMENT TRIBUNALS

Claimant: Miss S Haynes

Respondents: 1. Window & Conservatory Options UK Limited
2. Secretary of State for Business, Energy & Industrial Strategy

Heard at: Manchester **On:** 31 August 2018

Before: Regional Employment Judge Parkin

REPRESENTATION:

Claimant: No attendance

1st Respondent: No attendance, company dissolved

2nd Respondent: No attendance, response treated as written representations

JUDGMENT

The judgment of the Tribunal is that:

1. The claimant is entitled to a redundancy payment in the sum of £2,107.50, representing five years' continuous employment with the first respondent, of which four were when aged over 41 years, at her weekly pay of £351.25, at the relevant date, namely 17 November 2017.
2. No further awards are made as the first respondent has been dissolved.

REASONS

1. By a claim presented on 13 June 2018, the claimant claimed a redundancy payment together with notice pay and holiday pay in respect of the termination of her employment by the first respondent on 20 October 2017. She set out a full computation of her claims including for a redundancy payment in the sum of £2,458.75, sent by a letter to the first respondent's directors dated 2 February 2018.
2. When notice of the claim was given to the Secretary of State, he presented a full response on 5 July 2018, attaching documents which showed that the claimant's application to the National Insurance Fund had been refused since it was not clear that the first respondent was an insolvent company or that the claimant had made an application for her redundancy payment in time.

3. The first respondent presented a response on 17 July 2018 in time, maintaining that the claim was no longer valid since it had been presented more than six months after the claimant's last stated day of work.

4. Both the first respondent and the second respondent notified the Tribunal that they would not attend and asked for their responses to be treated as written representations, which the Tribunal did. However, a Companies House check on the date of hearing revealed that the first respondent had been dissolved on 24 July 2018 and thus was no longer an active company at the date of hearing.

5. Accordingly, the Tribunal could not deal with claims against the first respondent other than by declaring entitlement to a redundancy payment since the first respondent no longer existed. In any event, it appeared that the other monetary claims brought by the claimant were well out of time when she presented her claim.

6. In the absence of the claimant, the Tribunal was able to determine that she was employed by the respondent as secretary/PA from 1 November 2012 to 20 October 2017 when she was dismissed without notice. Applying the statutory minimum notice at section 86 of the Employment Rights Act 1996, the relevant date of termination of employment for redundancy purposes is within section 145(5) is 17 November 2017. This gives the claimant five years' continuous employment and she was born on 18 January 1972 such that four of those years were when aged over 41 years. The multiplier is accordingly 7 weeks at her gross weekly pay of £351.25, set out in the letter sent on 2 February 2018 enclosed with her claim form. Whilst the first respondent contended that her claim was presented out of time, the Tribunal applied the provisions of section 164(1) and (2) of the 1996 Act. Her claim was brought within the second period of six months following the relevant date in circumstances where she had indeed sought a redundancy payment in writing from the first respondent within the first six months. Her redundancy payment claim thus was presented in time and she is entitled to a redundancy payment in the sum of £2,107.50.

Regional Employment Judge Parkin

Date 3 September 2018

JUDGMENT AND REASONS SENT TO THE PARTIES ON

5 September 2018

FOR THE TRIBUNAL OFFICE

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.