



THE EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Respondent

Mr J D Weepers

AND

H Dobson Glass Merchants
2012 Limited

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

Held at: Teesside

On: 9 November 2017

Before: Employment Judge Johnson (sitting alone)

Appearances

For the Claimant: In person

For the Respondent: No attendance/no appearance

JUDGMENT

- 1 The claimant's complaint of unauthorised deduction from wages is well-founded and succeeds. The respondent is ordered to pay to the claimant the sum of £1,040, being wages unlawfully deducted. This sum is to be paid gross and the claimant shall be responsible for the payment of any income tax and national insurance contributions thereon.
- 2 The claimant's complaint of unauthorised deduction from wages (failure to pay accrued holiday pay) is well-founded and succeeds. The respondent is ordered to pay to the claimant the sum of £78.00 in respect of accrued holiday pay. That sum is to be paid gross and the claimant shall be responsible for the payment of any income tax and national insurance contributions thereon.
- 3 The claimant's complaint of breach of contract (failure to pay notice pay) is well-founded and succeeds. The respondent is ordered to pay to the claimant the sum of £780 by way of payment in lieu of notice. That sum is to be paid gross

and the claimant shall be responsible for the payment of any income tax and national insurance contributions thereon.

- 4 The claimant's complaint of Unfair Dismissal is well-founded and succeeds, but no compensation is payable to him.

REASONS

- 1 This matter came before me this morning for consideration of the claimant's claims of unauthorised deduction from wages, failure to pay accrued holiday pay and failure to pay notice pay. By judgment promulgated on 24 October 2017, the respondent was ordered to pay to the claimant the sum of £780 by way of redundancy payment. The outstanding matters required a formal hearing with evidence from the claimant, as it appeared from the face of the claim form that his claims may be out of time.
- 2 The claimant attended in person and gave evidence under oath. No response has been received from the respondent. No one attended on behalf of the respondent. The claimant informed me that he believes that, whilst the company still exists, it has ceased trading.
- 3 Mr Weepers confirmed that his employment with the respondent began on 28 November 2012. Throughout 2017 he encountered difficulties in receiving his wages and wage slips. Mr Weepers today produced to me copies of various text messages between himself and the respondent.
- 4 On 8 June 2017, Mr Weepers received a P45 from the respondent which was dated 22 May 2017. Mr Weepers mistakenly believed that this meant that his employment came to an end on 22 May 2017. However, the first he learnt of his dismissal was when he received the P45 on 8 June 2017. I am satisfied that as a basic principle of law, an employee is not dismissed until he learns of his dismissal. In the claimant's case that means that his dismissal was not effective until 8 June 2017.
- 5 The claimant entered into ACAS early conciliation on 2 September 2017, the ACAS certificate is dated 5 September 2017 and his claim form was presented on 5 September 2017. I am satisfied that the claims were presented within the period of three months commencing with the effective date of termination of his employment on 8 June 2017. Accordingly, the claims are in time.
- 6 I accepted Mr Weepers' evidence as to his arrears of wages, holiday pay and entitlement to notice pay. I am satisfied that the respondent failed to follow any fair procedure before dismissing the claimant, but that he would have been dismissed for reasons of redundancy in any event, so that he is not entitled to any further compensation for Unfair Dismissal.

EMPLOYMENT JUDGE JOHNSON

Case Number: 2501003/2017

**JUDGMENT SIGNED BY EMPLOYMENT
JUDGE ON
20 November 2017**