

EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: S/4102410/2017

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Held in Glasgow on 4 April 2018

Employment Judge: Amanda Jones (sitting alone)

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Mr D McCrindle

**Claimant
In Person**

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David Frazer

**Respondent
Not Present and
Not Represented**

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

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The Judgment of the Employment Tribunal is that the claimant is entitled to receive a redundancy payment of Five Thousand, Seven Hundred and Ninety Six Pounds (£5,796).

Introduction

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1. The claimant originally lodged a claim in respect of unpaid holiday pay, notice pay and redundancy pay. Following a Preliminary Hearing on 24 January 2018 before Employment Judge Robison, it was determined that the Tribunal had no jurisdiction to consider the claims in respect of holiday pay or notice pay as they had been lodged out of time and the Tribunal was not satisfied that it was not reasonably practicable to have lodged these claims in time. However, the Tribunal found that the claim for redundancy pay was lodged in time. This was therefore the only matter left to be determined.

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2. The claimant appeared before the Tribunal in person. The respondent's representative sent an email on the evening prior to the Hearing to the Tribunal, copied to the claimant, indicating that the respondent would not appear at the Hearing the following day and that he had been instructed not to appear on the respondent's behalf. No written submissions were lodged by or on behalf of the respondent. The judgment following the Hearing on 24 January 2018, confirms that it was accepted that the respondent was the employer of the claimant at the time of the claimant's dismissal.

Findings in Fact

3. I heard evidence from the claimant about his employment and earnings. I found the claimant to be a credible witness. The claimant produced some documentary information in relation to his pay. The claimant was 45 years old at the time of the termination of his employment. He had been working in the same role for 12 years although during that time the name of his employer had changed. He worked 39.5 hours per week and was paid an hourly rate. He was paid in cash. While in recent years, he had received a payslip with his wages, for the last six months of his employment he received an envelope with a post it note stating his hours and the amount enclosed. A deduction had been made for some time in respect of monies due to the Child Support Agency although the claimant said that he discovered that this money had not been remitted to the Child Support Agency for a number of months. He said that he usually received £414 per week gross but that this could be less if he was off sick and did not work his normal 39.5 hours. The claimant's employment terminated on 11 November 2016 when he was advised by the respondent that he was redundant.

Decision

4. By virtue of Section 163(2) of the Employment Rights Act 1996, an employee who has been dismissed shall, unless the contrary is proved, be presumed to have been so dismissed by reason of redundancy. I was satisfied that the claimant was dismissed by reason of redundancy. The amount of a
5 redundancy payment shall be calculated in accordance with section 162 of the Employment Rights Act 1996. In the present case that amount is calculated on the basis that the claimant was dismissed on 11 November 2016, at the age of 45, having completed 12 years' continuous employment. At the time of his dismissal, the claimant's weekly wage was £414 which was
10 below the statutory maximum. The claimant is therefore entitled to a week's pay for the first 8 years of his employment (being aged between 22 and 41 during that time) and 6 week's pay for the last 4 years of his employment (being aged over 41). The claimant is therefore entitled to receive a redundancy payment of 14 weeks' pay which is a total amount of £5,796.

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Employment Judge: A Jones
Date of Judgment: 16 April 2018
Entered in register: 18 April 2018
and copied to parties

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