



THE EMPLOYMENT TRIBUNALS

Claimant
Mr D E Lynch

Respondent
Harkers Transport Ltd

EMPLOYMENT JUDGE GARNON

MADE AT NORTH SHIELDS

ON 5th January 2018

JUDGMENT (Liability Only)
Employment Tribunals Rules of Procedure 2013 –Rule 21

The claims of wrongful dismissal (breach of contract), age discrimination, unlawful deduction of wages and failure to pay compensation for untaken annual leave are well founded. I make no decision on the claim of unfair dismissal and will make orders in respect of it at the Preliminary Hearing listed for 29th January 2018 . That hearing will also be a remedy hearing on the other claims at which the respondent may attend to be heard on remedy only.

REASONS

1. The claim was served on 4th December 2017. A response was due by 1st January 2018 but none was received. I am required by rule 21 of the Employment Tribunals Rules of Procedure 2013 to decide on the available material whether a determination can be made and , if so, obliged to issue a judgment which may determine liability only or liability and remedy.

2. On 2nd January I decided in view of the Christmas and New Year Bank holidays to allow two extra days in case post had been delayed . Today still no contact from the respondent had been received. I have in the claim form sufficient information to enable me to find the claims, other than unfair dismissal, proved on a balance of probability but not enough to determine the sums to be awarded.

3. The law of unfair dismissal is in Part X of the Employment Rights Act 1996 (the Act) An employee requires two years continuous employment to have the right but the claim form sets out nothing to show an exception to that rule under s108(3). The law relating to unlawful deduction of wages is in Part II of the Act.

4. The common law provides a contract of employment may be brought to an end by reasonable notice. Dismissal without such notice is termed "wrongful",

5. The Working Time Regulations 1998 say in Regulation 14 that where a worker's employment is terminated during the course of his leave year, and on the date on which the termination takes effect the proportion he has taken of the leave to which he is entitled in the leave year differs from the proportion of the leave year which has expired. his employer shall make him a payment in lieu of untaken leave.

6. The law relating to age discrimination is in the Equality Act 2010, in particular sections 13 19 and 39 in this case.

TM Garnon Employment Judge

Date signed 5th January 2018 .