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EMPLOYMENT TRIBUNALS

Claimants: Mrs S Bush
Miss SL Eves
Mr K Bush

Respondents: (1) M & T Meats Limited
(2) Byfords Traditional Fresh Foods Limited

Heard at: East London Hearing Centre

On: 31 October 2018

Before: Employment Judge Foxwell

Representation

Claimants: In person
Respondent: No attendance

JUDGMENT

The judgment of the Tribunal is that:-

1. The Claimants' claims against the Second Respondent are dismissed.

First Claimant (Mrs Bush) - 32016272018

2. The First Respondent has made an unauthorised deduction from the First Claimant's wages and is ordered to pay her the gross sum of £1,300.
3. The First Claimant was dismissed in breach of contract in respect of notice and the First Respondent is ordered to pay damages to her in the sum of £3,600.
4. The First Claimant was dismissed by reason of redundancy and is entitled to a redundancy payment of £7,800.
5. The First Respondent shall pay the First Claimant the further sum of £600 pursuant to section 38 of the Employment Act 2002.

Second Claimant (Miss Eves) – 3201662/2018

6. The Second Claimant was dismissed in breach of contract in respect of notice and the First Respondent is ordered to pay damages to her in the sum of £4,738.20.
7. The Second Claimant was dismissed by reason of redundancy and is entitled to a redundancy payment of £9,081.55.
8. The First Respondent has failed to pay the Second Claimant's holiday entitlement and is ordered to pay her the sum of £1,084.26.
9. The First Respondent shall pay the First Claimant the further sum of £789.70 pursuant to section 38 of the Employment Act 2002.

Third Claimant (Mr Bush) - 32016712018

10. The First Respondent has made an unauthorised deduction from the Third Claimant's wages and is ordered to pay him the gross sum of £1,614.
11. The Third Claimant was dismissed in breach of contract in respect of notice and the First Respondent is ordered to pay damages to him in the sum of £4,469.52.
12. The Third Claimant was dismissed by reason of redundancy and is entitled to a redundancy payment of £9,870.19.
13. The First Respondent shall pay the Third Claimant the further sum of £744.92 pursuant to section 38 of the Employment Act 2002.

REASONS

1. The Claimants in these consolidated claims are related; Mr and Mrs Bush are husband and wife and Miss Eves is Mrs Bush's sister. All three were employed at the same bakery in Rayleigh, Essex. Their employment ended suddenly on 28 June 2018 when the shop closed. In these circumstances I am satisfied that they were each dismissed by reason of redundancy. At the date of their dismissal the bakery was operated by the First Respondent, M & T Meats Ltd; the Second Respondent, Byford's Traditional Fresh Foods Ltd, had been their original employer but their employments transferred to the First Respondent under The Transfer of Undertakings (Protection Of Employment) Regulations 2006 some years before the dismissals. In these circumstances I have dismissed the Claimants' claims against the Second Respondent.

2. The First Respondent failed to pay the Claimants a statutory redundancy payment or notice pay upon dismissal. In the cases of Mr and Mrs Bush it also failed to pay their last month's salary. In Miss Eves' case she received her salary for June 2018 but was owed outstanding holiday pay at the time of her dismissal.

3. The Claimants each told me that they had received particulars of employment from the Second Respondent but had not received updated particulars from the First Respondent when the business transferred to it. I find that in these circumstances each Claimant is entitled to an additional award of two weeks' pay under section 38 of the Employment Act 2002.

4. Against that background I set out my findings in respect of each Claimant's claim.

Mrs Bush.

5. Mrs Bush was born on 29 March 1965 and was therefore aged 53 at the date of her dismissal. She earned £1300 per calendar month, £1146 net. She had first begun working at the bakery in the early 1980s but took a career break to look after her young children. I find that her continuous employment for the purposes of calculating her entitlement to notice and a statutory redundancy payment began on or about 1 September 1997 when her younger child began school. Accordingly, she had completed 20 full years' service at the date of her dismissal. I find therefore that she is entitled to 12 weeks statutory notice at the rate of £300 a week (which will be taxable in her hands) and to a redundancy payment of £7800 based on 26 weeks' gross pay. I accept and find that she suffered an unlawful deduction from wages of £1300 gross (also taxable in her hands). Finally, I make an award of two weeks' pay pursuant to section 38 of the employment act 2002 in the sum of £600.

Miss Eves

6. Miss Eves was born on 6 September 1970 and was therefore aged 47 at the date of her dismissal. She earned £1711.05 per calendar month, £1416.37 net. I find that her continuous employment for the purposes of calculating her entitlement to notice and a statutory redundancy payment began at about the same time as when her sister returned to work, that is on or about 1 September 1997. Accordingly, she had completed 20 full years' service at the date of her dismissal. I find therefore that she is entitled to 12 weeks statutory notice at the rate of £394.85 a week (which will be taxable in her hands) and to a redundancy payment of £9081.55 based on 23.5 weeks' gross pay. I accept and find that the First Respondent failed to pay her accrued holiday pay of £1084.26 gross (also taxable in her hands). Finally, I make an award of two weeks' pay pursuant to section 38 of the employment act 2002 in the sum of £789.70.

Mr Bush

7. Mr Bush was born on 2 May 1960 and was therefore aged 58 at the date of his dismissal. He earned £1614 per calendar month, £1353 net. I find that his continuous employment began on 24 February 2000. Accordingly, he had completed 18 full years' service at the date of his dismissal. I find therefore that he is entitled to 12 weeks statutory notice at the rate of £372.46 a week (which will be taxable in his hands) and to a redundancy payment of £9870.19 based on 26.5 weeks gross pay. I accept and find that he suffered an unlawful deduction from wages of £1614 gross (also taxable in his hands). Finally, I make an award of two weeks' pay pursuant to section 38 of the employment act 2002 in the sum of £744.92.

Employment Judge Foxwell

31 October 2018