



THE EMPLOYMENT TRIBUNALS

Claimant
Mr R Robson

Respondent
Glass House Union Rooms Ltd
(in creditors voluntary liquidation)

MADE AT NORTH SHIELDS
EMPLOYMENT JUDGE GARNON

ON 18th July 2018

JUDGMENT (Liability and Remedy)
Employment Tribunals Rules of Procedure 2013 (the Rules)–Rule 21

1. The claim of unlawful deduction of wages is well founded . I order £2916.67 gross of tax and National Insurance (NI) to be paid by the respondent to the claimant.
2. The claim for compensation for untaken annual leave is well founded. I order £3455.10 gross of tax and NI to be paid by the respondent to the claimant.
3. I make an additional award under s38 of the Employment Act 2002 of £1956
4. The hearing listed for 23rd July 2018 is cancelled

REASONS

1. The claim was presented on 14th February 2018. At about the same time several others were presented, as this one was originally, naming as respondent Glass House Leisure Ltd.. Both companies were under the control of the same individual and operated from the same premises . Only the claimant's payslips revealed his employer was Glass House Union Rooms Ltd whereupon the claim was amended. In all of the claims service proved a massive problem until both companies went into liquidation
2. I am now satisfied it has been validly served on the liquidator after many attempts to serve the respondent before it entered liquidation. No response has been received.
3. I am required by rule 21 of the Rules to decide on the available material whether a determination can be made and , if so I am obliged to issue a judgment which may determine liability and remedy. I consider the above judgment appropriate because I have sufficient information to enable me to find the claim proved and to determine the sums claimed are accurate .

4. The law relating to unlawful deduction of wages is in Part 2 of the Employment Rights Act 1996 (the Act) . The Working Time Regulations 1998 say in Regulation 14 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 calculated by a formula. Such sums are awarded gross of tax.

5. The claimant was owed one month's pay at his salary rate of £35000 per annum. He took no paid leave in the 11 months he was employed .The arithmetic in his first claim is £35000 divided by 12 . His second is £35000 divided by 52 X 5.6 (the amount of leave for a full year) divided by 12 and multiplied by 11.

6. Section 38 of the Employment Act 2002 says where an employer has failed to comply with a duty imposed upon him under Section 1 of the Act to provide an employee with a written statement of her terms and conditions of employment , or changes to such terms ,then, when making an award under the foregoing sections, I must increase it by either two weeks or four weeks pay depending on the gravity of the employer's breach. This breach was total, caused the claimant and theTribunal unnecessary work in establishing the correct employer so there is no doubt in my mind I should make the higher award . A week's pay for those purposes is capped at £489 by s227 of the Act

TM Garnon Employment Judge
Date 18th July 2018