



THE EMPLOYMENT TRIBUNALS

Claimant
Mr M Rice

Respondent
Snowdrift Dry Cleaners Ltd t/a Sunlite Dry Cleaners

EMPLOYMENT JUDGE GARNON
MADE AT NORTH SHIELDS

ON 12th July 2018

JUDGMENT

Employment Tribunals Rules of Procedure 2013 –Rule 21

- 1 The name of the respondent is amended to that shown above, without the need for re-service and its address for service amended to c/o Integra Advisors Llp, Wakefield Road , Denby Dale, Huddersfield HD8 8QJ.
2. On the claim of unlawful deduction of wages , I order the respondent to repay to the claimant £ 1410.26 gross of tax and National Insurance
3. On the claim for compensation for untaken annual leave , I order the respondent to pay to the claimant of £ 346.15 gross of tax and National Insurance
4. Under s 38 of the Employment Act 2002 I increase the awards by £1956.

The total payable under this judgment is £3712.41

REASONS

1. When the claim was presented there was doubt as to the proper name of the respondent . The claim form first named “Arthur Harris”. Early Conciliation had been commenced against “Sunlite Dry Cleaners”. The claim was initially rejected due to that difference but accepted when re-presented against that trade name. It was served on the respondent’s trading address “ 111 Park View, Whitley Bay NE26 3RH”. The response was due by 13th June 2018 but none was received.
2. An Employment Judge is 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 remedy as well. . Employment Judge Shepherd decided he had sufficient to enable him to find the claims proved on a balance of probability but not to determine the sums to be awarded .. He issued a judgment on liability only and fixed today for a remedy hearing .

The respondent was notified. No letter sent to the respondent has been returned undelivered by Royal Mail.

3. Yesterday in preparation for this hearing I accessed Companies House website and found a company named Sunlite Clean Ltd. Its sole officer is Arthur Haldane Stuart Harris . Its registered office is 111-113 Park View, Whitley Bay NE26 3RH.. Today, the claimant attended and produced a letter from the respondent headed “Sunlite Dry Cleaners Head Office 111 Park View, Whitley Bay NE26 3RH” signed by “ Arthur HS Harris , Chief Executive” dated 4th December 2017 . At the foot of the page it says “ *Sunlite is a trading name of Snowdrift Dry Cleaners Ltd. Registered office : 65A London Road, Newark NG24 1RZ. Co. No. 09623376.*

The Companies House website shows a company with that name and number. One of its four officers is Arthur Haldane Stuart Harris . Its registered office is c/o Integra Advisors Llp, Wakefield Road, Denby Dale, Huddersfield HD8 8QJ, also shown on the search as its “ correspondence address” .

4. I am satisfied these proceedings have been validly served and come to the attention of Mr Harris. The claimant says he knows that to be so. Of the two limited companies I have mentioned the claimant is satisfied the latter was his employer. No injustice is done by amending the name and the service address

5. The law relating to unlawful deduction of wages is in Part 2 of the Employment Rights Act 1996. The claimant was underpaid by £416.67 for two months ended 21st January 2018 and 21st February 2018. He was not paid at all for work from 21st to 28th February and is owed £576.92 for that week .

6. 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 under regulation 13(1) 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 which the claimant has correctly applied . Such sums are awarded gross of tax . The claimant had accrued three more days leave entitlement that he took and that comes to £346.15.

7. Section 38 of the Employment Act 2002 applies to these proceedings and says that if

(a) the employment tribunal makes an award to the employee in respect of the claim to which the proceedings relate, and

(b) when the proceedings were begun the employer was in breach of his duty to the employee under section 1(1) or 4(1) of the Employment Rights Act 1996,

*the tribunal **must**, subject to subsection (5), increase the award by the minimum amount and may, if it considers it just and equitable in all the circumstances, increase the award by the higher amount instead.*

(4) In subsections (2) and (3)—

*(a) references to the minimum amount are to an amount equal to two weeks' pay, and
(b) references to the higher amount are to an amount equal to four weeks' pay.*

8 The amount of a week's pay of an employee is limited by section 227 of the Employment Rights Act 1996 to £489 for this purpose. The claimant was never given a statement of terms and conditions of employment as required by s1 of the 1996 Act. The failure to do so has caused him and the Tribunal needless work and expense in tracing the identity of the correct corporate employer . The higher amount is merited .

TM Garnon Employment Judge

Date signed 12th July 2018