



THE EMPLOYMENT TRIBUNALS

Claimant
Mr D Smith

Respondent
Humac Civil Engineering Limited (in Administration)

EMPLOYMENT JUDGE GARNON
MADE AT NORTH SHIELDS

ON 25th June 2018

JUDGMENT (Liability and Remedy) **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. The Administrators have consented to continuation of the claim.**
- 2. The claim of unlawful deduction of wages is well founded. I order the respondent to repay to the claimant £1535.**

REASONS

1. The claim was served on 2nd January 2018. A limited company may use a trading name. The claim form names “Humac Civil Engineering ” without the word “Limited “.A minor amendment to the respondent’s name without the need for re-service in my view does no injustice.
2. A claim may be validly served on a limited company either at its registered office or a place of business. The claim form gave an address in Doncaster, which may have been both, upon which service was effected.
3. A response was due by 30th January 2018 but none was received. 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 liability and remedy.
4. I considered the file on 31st January. The Companies House website then showed the respondent was in administration . The Insolvency Act requires the administrator to consent to the continuation of the claim. A letter to that effect was sent to the claimant and consent given in writing on 23rd May 2018.
5. I have in the claim form sufficient information to enable me to find the claim proved on a balance of probability and to determine the sums to be awarded.

6. The law of unlawful deduction of wages is in Part 2 of the Employment Rights Act 1996 (the Act). Wages includes holiday pay. The claimant was sent his final payslip but the sum was not paid to his bank . Non payment of wages is deemed to be a deduction. The claimant may now make application to the Secretary of State for payment of these sums which appear to be within the sums payable by him if the employer is insolvent

TM Garnon Employment Judge

Date signed 25th June 2018 .